

# APPENDIX

## TO THE HISTORY OF THE TWELFTH CONGRESS.

[SECOND SESSION.]

COMPRISING THE MOST IMPORTANT DOCUMENTS ORIGINATING DURING THAT CONGRESS, AND THE PUBLIC ACTS PASSED BY IT.

### GREAT BRITAIN.

[Communicated to Congress by the Messages of November 4,\* 12, and 18, 1812.]

*To the Senate and House of Representatives of the United States:*

For the further information of Congress relative to the pacific advances made on the part of this Government to that of Great Britain, and the manner in which they have been met by the latter, I transmit the sequel of the communications on that subject received from the late *Chargé d'Affaires* at London.

JAMES MADISON.

NOVEMBER 12, 1812.

*To the Senate and House of Representatives of the United States:*

I transmit to Congress copies of a communication from Mr. Russell to the Secretary of State. It is connected with the correspondence accompanying my Message of the 12th instant, but had not, at that date, been received.

JAMES MADISON.

NOVEMBER 18, 1812.

Extract—Mr. Monroe to Mr. Russell.

JUNE 26, 1812.

This letter is committed to Mr. Foster, who has promised to deliver it to you in safety.

On the 18th of this month a declaration of war against Great Britain passed Congress. I send you a copy of the act, of the President's Message, and of the report of the Committee of Foreign Relations, which brought the subject under consideration.

This measure has been produced by the continued aggressions of the British Government on the rights of the United States, and the presumption arising from that and other facts, which it is unnecessary to recite, that no favorable change of policy might be expected from it. It was impossible for the United States to surrender their

rights, by relinquishing the ground which they had taken; and it was equally incompatible with their interests and character to rely longer on measures which had failed to accomplish their objects. War was the only remaining alternative; and that fact being clearly ascertained, you will find by the documents transmitted, that it was adopted with decision.

As war has been resorted to by necessity, and, of course, with reluctance, this Government looks forward to the restoration of peace with much interest, and a sincere desire to promote it on conditions just, equal, and honorable to both parties. It is in the power of Great Britain to terminate the war on such conditions, and it would be very satisfactory to the President to meet it in arrangements to that effect.

Although there are many just and weighty causes of complaint against Great Britain, you will perceive, by the documents transmitted, that the Orders in Council, and other blockades, illegal, according to the principles lately acknowledged, and the impressment of our seamen, are considered to be of the highest importance. If the Orders in Council are repealed, and no illegal blockades are substituted for them; and orders are given to discontinue the impressment of seamen from our vessels, and to restore those already impressed, there is no reason why hostilities should not immediately cease. Securing these objects, you are authorized to stipulate an armistice, to commence from the signature of the instrument providing for it, or at the end of fifty or sixty days, or other the shortest term that the British Government will assent to. Definitive arrangements will be made on these and every other difference by a treaty, to be concluded either here or at London, though it is much desired that the subject should be entered on in this city.

As an inducement to the British Government to discontinue the practice of impressments from our vessels, you may give assurance that a law will be passed (to be reciprocal) to prohibit the employment of British seamen in the public or commercial service of the United States. There can be no doubt that such an arrangement would prove much more efficacious in securing to Great

\*For Message of November 4, 1812, see Senate proceedings, *ante*, page 11, of this volume.

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Britain her seamen, than the practice to which it is proposed to be a substitute, independent of all the other objections to it.

Indemnity for injuries received under the Orders in Council, and other edicts violating our rights, seems to be incident to their repeal; but the President is willing that the consideration of that claim should not be pressed at this time, so as to interfere with the preliminary arrangement alluded to. It will be proper to bring it into view, merely to show that it is expected that provision will be made for it in the treaty which is to follow. Every other interest may also be provided for at the same time.

It is hoped that the British Government will find it consistent with its interest and honor to terminate the war by an armistice, in the manner and on the conditions proposed. In so doing, it will abandon no right, it will sacrifice no interest; it will abstain only from violating our rights, and, in return, it will restore peace with the Power from whom, in a friendly commercial intercourse, so many advantages will be derived, not to mention the injuries which cannot fail to result from a prosecution of the war.

Mr. Monroe to Mr. Russell.

DEPARTMENT OF STATE, *July 27, 1812.*

SIR: I wrote you on the 26th of June, by Mr. Foster, a letter, which he promised to deliver you in person, or by a safe hand.

In that letter you were informed that the Orders in Council, and other illegal blockades, and the impressment of our seamen by Great Britain, as you well knew before, were the principal causes of the war; and that, if they were removed, you might stipulate an armistice, leaving them and all other grounds of difference for final and more precise adjustment by treaty. As an inducement to the British Government to discontinue the practice of impressment from our vessels, by which alone our seamen can be made secure, you were authorized to stipulate a prohibition by law, to be reciprocal, of the employment of British seamen in the public or commercial service of the United States. As such an arrangement, which might be made completely effectual and satisfactory by suitable regulations and penalties, would operate almost exclusively in favor of Great Britain—for, as few of our seamen ever enter voluntarily into the British service, the reciprocity would be nominal—its advantage to Great Britain would be more than an equivalent for any she derives from impressment, which alone ought to induce her to abandon the practice, if she had no other motive for it. A stipulation to prohibit by law the employment of British seamen in the service of the United States is to be understood in the sense and spirit of our Constitution. The passage of such a law must depend of course on Congress, who, it might reasonably be presumed, would give effect to it.

By authorizing you to secure these objects as the grounds of an armistice, it was not intended to restrict you to any precise form in which it

should be done. It is not particularly necessary that the several points should be specially provided for in the convention stipulating the armistice. A clear and distinct understanding with the British Government on the subject of impressment, comprising in it the discharge of the men already impressed, and on future blockades, if the Orders in Council are revoked, is all that is indispensable. The Orders in Council being revoked, and the proposed understanding on the other points, that is, on blockades and impressment, being first obtained in a manner, though informal, to admit of no mistake or disagreement hereafter, the instrument providing for the armistice may assume a general form, especially if more agreeable to the British Government. It may, for example, be said in general terms, "that both Powers being sincerely desirous to terminate the differences which unhappily subsist between them, and equally so that full time should be given for the adjustment thereof, agree

"1. That an armistice shall take place for that purpose, to commence on the — day of —.

"2. That they will forthwith appoint on each side commissioners with full power to form a treaty, which shall provide, by reciprocal arrangements, for the security of their seamen from being taken or employed in the service of the other Power, for the regulation of their commerce, and all other interesting questions now depending between them.

"3. The armistice shall not cease without a previous notice by one to the other party of — days, and shall not be understood as having other effect than merely to suspend military operations by land and by sea."

By this you will perceive that the President is desirous of removing every obstacle to an accommodation, which consists merely of form. Securing in a safe and satisfactory manner the rights and interests of the United States, in these two great and essential circumstances, as it is presumed may be accomplished by the proposed understanding, he is willing that it be done in a manner the most satisfactory and honorable to Great Britain, as well as to the United States.

I have the honor to be, &c.

JAMES MONROE.

Mr. Graham to Mr. Russell.

DEPARTMENT OF STATE, *Aug. 9, 1812.*

SIR: The Secretary left this city about ten days ago on a short visit to Virginia. Since that period, Mr. Baker has, in consequence of some despatches from his Government, addressed to Mr. Foster, made to me a communication respecting the intentions of his Government, as regards the Orders in Council. It was of a character, however, so entirely informal and confidential, that Mr. Baker did not feel himself at liberty to make it in the form of a note, verbal, or *pro memoria*, or even to permit me to make a memorandum of it at the time he made it. As it authorizes an expectation that something more precise and definite, in an official form, may soon be received by

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this Government, it is the less necessary that I should go into an explanation of the views of the President in relation to it, more particularly as the Secretary of State is daily expected, and will be able to do it in a manner more satisfactory.

I refer you to the enclosed papers for information as to the maritime and military movements incident to the war, and will add, that the President is anxious to know, as soon as possible, the result of the proposals you were authorized to make to the British Government respecting an armistice. He considers them so fair and reasonable, that he cannot but hope that they will be acceded to, and thus be the means of hastening an honorable and permanent peace.

I have the honor, &c.

JOHN GRAHAM.

Mr. Graham to Mr. Russell.

DEPARTMENT OF STATE, Aug. 10, 1812.

SIR: Thinking that it may possibly be useful to you, I do myself the honor to enclose a memorandum of the conversation between Mr. Baker and myself, alluded to in my letter of yesterday's date. From a conversation with Mr. Baker since this memorandum was made, I find that I was correct in representing to the President that the intimation from Mr. Foster and the British authorities at Halifax was to be understood as connected with a suspension of hostilities on the frontiers of Canada.

I have the honor, &c.

JOHN GRAHAM.

[Memorandum referred to in the above letter.]

Mr. Baker verbally communicated to me, for the information of the President, that he had received despatches from his Government addressed to Mr. Foster, dated, I believe, about the 17th of June, from which he was authorized to say that an official declaration would be sent to this country; that the Orders in Council, so far as they affected the United States would be repealed on the first of August, to be revived on the 1st of May, 1813, unless the conduct of the French Government, and the result of the communications with the American Government, should be such as, in the opinion of His Majesty, to render their revival unnecessary. Mr. Baker, moreover, stated that the orders would be revived, provided the American Government did not, within fourteen days after they received the official declaration of their repeal, admit British armed vessels into their ports, and put an end to the restrictive measures which had grown out of the Orders in Council.

The despatches authorizing this communication to the American Government expressly directed that it should be made verbally, and Mr. Baker did not consider himself at liberty to reduce it to writing, even in the form of a note verbal, or *pro memoria*, or to suffer me to take a memorandum of his communication at the time he made it. I understood from him

that the despatches had been opened by Mr. Foster at Halifax, who, in consequence of a conversation he had had with Vice-Admiral Sawyer and Sir John Sherbrooke, had authorized Mr. Baker to say that these gentlemen would agree, as a measure leading to a suspension of hostilities, that all captures made after a day to be fixed, should not be proceeded against immediately, but be detained to await the future decision of the two Governments. Mr. Foster had not seen Sir George Prevost, but had written to him by express, and did not doubt but that he would agree to an arrangement for the temporary suspension of hostilities. Mr. Baker also stated that he had received an authority from Mr. Foster to act as *Chargé des Affaires*, provided the American Government would receive him in that character, for the purpose of enabling him officially to communicate the declaration which was to be expected from the British Government. His functions to be understood, of course, as ceasing on the renewal of hostilities.

I replied, that although to so general and informal a communication no answer might be necessary, and certainly no particular answer expected, yet I was authorized to say that the communication is received with sincere satisfaction, as it is hoped that the spirit in which it was authorized by his Government may lead to such further communications as will open the way, not only for an early and satisfactory termination of existing hostilities, but to that entire adjustment of all the differences which produced them, and to that permanent peace and solid friendship which ought to be mutually desired by both countries, and which is sincerely desired by this. With this desire, an authority was given to Mr. Russell on the subject of an armistice, as introductory to a final pacification, as has been made known to Mr. Foster; and the same desire will be felt on the receipt of the further and more particular communications which are shortly to be expected, with respect to the joint intimation from Mr. Foster and the British authorities at Halifax on the subject of suspending judicial proceedings in the case of maritime captures, to be accompanied by a suspension of military operations. The authority given to Mr. Russell just alluded to, and of which Mr. Foster was the bearer, is full proof of the solicitude of the Government of the United States to bring about a general suspension of hostilities on admissible terms, with as little delay as possible. It was not to be doubted, therefore, that any other practicable expedient for attaining a similar result would readily be concurred in. Upon the most favorable consideration, however, which could be given to the expedient suggested through him, it did not appear to be reducible to any practical shape to which the Executive would be authorized to give it the necessary sanction; nor, indeed, is it probable, if it was less liable to insuperable difficulties, that it could have any material effect previous to the result of the pacific advance made by this Government, and which must, if favorably received, become operative as soon as any other arrangement tha

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could now be made. It was stated to Mr. Baker that the President did not, under existing circumstances, consider Mr. Foster as vested with the power of appointing a *Chargé des Affaires*; but that no difficulty in point of form would be made, as any authentic communication through him, or any other channel, would be received with attention and respect.

Extract—Secretary of State to Mr. Russell.

DEPARTMENT OF STATE,  
August 21, 1812.

My last letter to you was of the 27th July, and was forwarded by the British packet the *Althea*, under the special protection of Mr. Baker. The object of that letter, and of the next preceding one of the 26th June, was to invest you with power to suspend, by an armistice, on such fair conditions as it was presumed could not be rejected, the operation of the war, which had been brought on the United States by the injustice and violence of the British Government. At the moment of the declaration of war, the President, regretting the necessity which produced it, looked to its termination and provided for it; and happy will it be for both countries if the disposition felt, and the advance thus made on his part, are entertained and met by the British Government in a similar spirit.

You have been informed by Mr. Graham of what passed in my late absence from the city, in an interview between Mr. Baker and him, in consequence of a despatch from the British Government to Mr. Foster, received at Halifax, just before he sailed for England, and transmitted by him to Mr. Baker, relating to a proposed suspension or repeal of the British Orders in Council. You will have seen, by the note forwarded to you by Mr. Graham, of Mr. Baker's communication to him, that Mr. Foster had authorized him to state that the commanders of the British forces at Halifax would agree to a suspension, after a day to be fixed, of the condemnation of prizes, to await the decision of both Governments, without, however, preventing captures on either side. It appears, also, that Mr. Foster had promised to communicate with Sir George Prevost, and to advise him to propose to our Government an armistice.

Sir George Prevost has since proposed to General Dearborn, at the suggestion of Mr. Foster, a suspension of offensive operations by land, in a letter which was transmitted by the General to the Secretary at War. A provisional agreement was entered into between General Dearborn and Colonel Baynes, the British Adjutant General, bearer of General Prevost's letter, that neither party should act offensively before the decision of our Government should be taken on the subject.

Since my return to Washington the document alluded to in Mr. Foster's despatch, as finally decided on by the British Government, has been handed to me by Mr. Baker, with a remark that its authenticity might be relied on. Mr. Baker

added that it was not improbable that the admiral at Halifax might agree likewise to a suspension of captures, though he did not profess or appear to be acquainted with his sentiments on that point.

On full consideration of all the circumstances which merit attention, the President regrets that it is not in his power to accede to the proposed arrangement. The following are among the principal reasons which have produced this decision:

1. The President has no power to suspend judicial proceedings on prizes. A capture, if lawful, vests a right over which he has no control. Nor could he prevent captures otherwise than by an indiscriminate recall of the commissions granted to our privateers, which he could not justify under existing circumstances.

2. The proposition is not made by the British Government, nor is there any certainty that it would be approved by it. The proposed arrangement, if acceded to, might not be observed by the British officers themselves, if their Government, in consequence of the war, should give them instructions of a different character, even if they were given without a knowledge of the arrangement.

3. No security is given or proposed as to the Indians, nor could any be relied on. They have engaged in the war on the side of the British Government, and are now prosecuting it with vigor, in their usual savage mode. They can only be restrained by force when once let loose, and that force has already been ordered out for the purpose.

4. The proposition is not reciprocal, because it restrains the United States from acting where their power is greatest, and leaves Great Britain at liberty and gives her time to augment her forces in our neighborhood.

5. That as a principal object of war is to obtain redress against the British practice of impressment, an agreement to suspend hostilities, even before the British Government is heard from on that subject, might be considered a relinquishment of that claim.

6. It is the more objectionable, and of less importance, in consideration of the instructions heretofore given you, which, if met by the British Government, may have already produced the same result in a greater extent and more satisfactory form.

I might add that the declaration itself is objectionable in many respects, particularly the following:

1. Because it asserts a right in the British Government to restore the Orders in Council, or any part thereof, to their full effect, on a principle of retaliation on France, under circumstances of which she alone is to judge; a right which this Government cannot admit, especially in the extent heretofore claimed and acted on by the British Government.

2. That the repeal is founded exclusively on the French decree of 28th April, 1811, by which the repeal of the decrees of Berlin and Milan, announced on the 5th August, 1810, to take effect

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on the 1st of November of that year, at which time their operation actually ceased, is disregarded, as are the claims of the United States arising from the repeal on that day, even according to the British pledge.

3. That even if the United States had no right to claim the repeal of the British Orders in Council prior to the French decree of the 28th of April, 1811, nor before the notification of that decree to the British Government on the 20th of May of the present year, the British repeal ought to have borne date from that day, and been subject to none of the limitations attached to it.

These remarks on the declaration of the Prince Regent, which are not pursued with rigor, nor in the full extent which they might be, are applicable to it, in relation to the state of things which existed before the determination of the United States to resist the aggressions of the British Government by war. By that determination the relations between the two countries have been altogether changed; and it is only by a termination of the war, or by measures leading to it by consent of both Governments, that its calamities can be closed or mitigated. It is not now a question whether the declaration of the Prince Regent is such as ought to have produced a repeal of the non-importation act, had not war been declared; because, by the declaration of war, that question is superseded, and the non-importation act having been continued in force by Congress, and become a measure of war, and among the most efficient, it is no longer subject to the control of the Executive in the sense and for the purpose for which it was adopted. The declaration, however, of the Prince Regent will not be without effect. By repealing the Orders in Council, with out reviving the blockade of May 1806, or any other illegal blockade, as is understood to be the case, it removes a great obstacle to an accommodation. The President considers it an indication of a disposition in the British Government to accommodate the differences which subsist between the countries, and I am instructed to assure you that, if such disposition really exists, and is persevered in, and is extended to other objects, especially the important one of impressment, a durable and happy peace and reconciliation cannot fail to result from it.

Mr. Russell to Mr. Monroe.

LONDON, Sept. 1, 1812.

SIR: You will perceive by the enclosed copies of notes which have passed between Lord Castlereagh and me, that the moderate and equitable terms proposed for a suspension of hostilities have been rejected, and that it is my intention to return immediately to the United States.

My continuance here, after it has been so broadly intimated to me by his Lordship that I am no longer acknowledged in my diplomatic capacity, and after a knowledge that instructions are given to the British Admiral to negotiate an arrangement on the other side of the Atlantic, would, in my view of the subject, not only be useless, but improper.

It is probable, however, that the vessel in which I propose to embark will not take her departure before the 15th or 20th of this month.

I have the honor to be, &c.

JONA. RUSSELL.

JAMES MONROE, Esq., &c.

Mr. Russell to Lord Castlereagh.

LONDON, August 24, 1812.

MY LORD: It is only necessary, I trust, to call the attention of your Lordship to a review of the conduct of the Government of the United States, to prove, incontrovertibly, its unceasing anxiety to maintain the relations of peace and friendship with Great Britain. Its patience in suffering the many wrongs which it has received, and its perseverance in endeavoring, by amicable means, to obtain redress, are known to the world. Despairing at length of receiving this redress from the justice of the British Government, to which it had so often applied in vain, and feeling that a further forbearance would be a virtual surrender of interests and rights essential to the prosperity and independence of the nation confided to its protection, it has been compelled to discharge its high duty by an appeal to arms. While, however, it regards this course as the only one which remained for it to pursue, with a hope of preserving any portion of that kind of character which constitutes the vital strength of every nation, yet it is still willing to give another proof of the spirit which has uniformly distinguished its proceedings, by seeking to arrest, on terms consistent with justice and honor, the calamities of war. It has, therefore, authorized me to stipulate with His Britannic Majesty's Government an armistice, to commence at or before the expiration of sixty days after the signature of the instrument providing for it, on condition that the Orders in Council be repealed, and no illegal blockades be substituted for them; and that orders be immediately given to discontinue the impressment of persons from American vessels, and to restore the citizens of the United States already impressed; it being, moreover, well understood that the British Government will assent to enter into definitive arrangements, as soon as may be, on these and every other difference, by a treaty to be concluded either at London or Washington, as, on an impartial consideration of existing circumstances, shall be deemed most expedient.

As an inducement to Great Britain to discontinue the practice of impressment from American vessels, I am authorized to give assurance that a law shall be passed (to be reciprocal) to prohibit the employment of British seamen in the public or commercial service of the United States. It is sincerely believed that such an arrangement would prove more efficacious in securing to Great Britain her seamen than the practice of impressment, so derogatory to the sovereign attributes of the United States, and so incompatible with the personal rights of their citizens.

Your Lordship will not be surprised that I have presented the revocation of the Orders in Coun-

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cil as a preliminary to the suspension of hostilities, when it is considered that the act of the British Government of the 23d June last, ordaining that revocation, is predicated on conditions, the performance of which is rendered impracticable by the change which is since known to have occurred in the relations between the two countries. It cannot now be expected that the Government of the United States will immediately, on due notice of that act, revoke or cause to be revoked its acts excluding from the waters and harbors of the United States all British armed vessels, and interdicting commercial intercourse with Great Britain. Such a procedure would necessarily involve consequences too unreasonable and extravagant to be for a moment presumed. The Order in Council of the 23d June last will, therefore, according to its own terms, be null and of no effect, and a new act of the British Government, adapted to existing circumstances, is obviously required for the effectual repeal of the Orders in Council, of which the United States complain.

The Government of the United States considers indemnity for injuries received under the Orders in Council, and other edicts violating the rights of the American nation, to be incident to their repeal, and it believes that satisfactory provision will be made in the definitive treaty to be hereafter negotiated for this purpose.

The conditions now offered to the British Government for the termination of the war by an armistice, as above stated, are so moderate and just in themselves, and so entirely consistent with its interest and honor, that a confident hope is indulged that it will not hesitate to accept them. In so doing, it will abandon no right, it will sacrifice no interest; it will abstain only from violating the rights of the United States, and in return it will restore peace with the Power, from whom, in a friendly commercial intercourse, so many advantages are to be derived.

Your Lordship is undoubtedly aware of the serious difficulties with which a prosecution of the war, even for a short period, must necessarily embarrass all future attempts at accommodation. Passions exasperated by injuries, alliances, or conquests, on terms which forbid their abandonment, will inevitably hereafter imbitter and protract a contest which might now be so easily and happily terminated.

Deeply impressed with these truths, I cannot but persuade myself that His Royal Highness the Prince Regent will take into his early consideration the propositions herein made on behalf of the United States, and decide on them in a spirit of conciliation and justice.

I have the honor to be, &c.

JONATHAN RUSSELL.

Lord Castlereagh to Mr. Russell.

FOREIGN OFFICE, August 29, 1812.

SIR: Although the diplomatic relations between the two Governments have been terminated by a declaration of war on the part of the United States, I have not hesitated, under the peculiar

circumstances of the case, and the authority under which you act, to submit to the Prince Regent the proposition contained in your letter of the 24th for a suspension of hostilities.

From the period at which your instructions must have been issued, it is obvious that this overture was determined upon by the Government of the United States, in ignorance of the Order in Council of the 23d of June last; and, as you inform me that you are not at liberty to depart from the conditions set forth in your letter, it only remains for me to acquaint you that the Prince Regent feels himself under the necessity of declining to accede to the proposition therein contained, as being, on various grounds, absolutely inadmissible.

As soon as there was reason to apprehend that Mr. Foster's functions might have ceased in America, and that he might have been obliged to withdraw himself, in consequence of war having been declared, from the United States, before the above-mentioned order of the 23d of June and the instructions consequent thereupon could have reached him, measures were taken for authorizing the British Admiral on the American station to propose to the Government of the United States an immediate and reciprocal revocation of all hostile orders, with the tender of giving full effect, in the event of hostilities being discontinued, to the provisions of the said order, upon the conditions therein specified.

From this statement you will perceive that the view you have taken of this part of the subject is incorrect; and that, in the present state of the relations between the two countries, the operation of the order of the 23d June can only be defeated by a refusal on the part of your Government to desist from hostilities, or to comply with the conditions expressed in the said order.

Under the circumstances of your having no powers to negotiate, I must decline entering into a detailed discussion of the propositions which you have been directed to bring forward.

I cannot, however, refrain on one single point from expressing my surprise, namely, that as a condition preliminary even to a suspension of hostilities, the Government of the United States should have thought fit to demand that the British Government should desist from an ancient and accustomed practice of impressing British seamen from the merchant ships of a foreign State, simply on the assurance that a law shall hereafter be passed to prohibit the employment of British seamen in the public or commercial service of that State.

The British Government now, as heretofore, is ready to receive from the Government of the United States, and amicably to discuss, any proposition which professes to have in view either to check abuse in the exercise of the practice of impressment, or to accomplish, by means less liable to vexation, the object for which impressment has hitherto been found necessary; but they cannot consent to suspend the exercise of a right upon which the naval strength of the Empire mainly depends, until they are fully convinced

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that means can be devised, and will be adopted, by which the object to be obtained by the exercise of that right can be effectually secured.

I have the honor to be, &c.

CASTLEREAGH.

JONATHAN RUSSELL, Esq., &c.

Mr. Russell to Lord Castlereagh.

18, BENTINCK STREET, Sept. 1, 1812.

MY LORD: I have learned with much regret by your Lordship's note dated the 29th ultimo, which I did not receive until this morning, that the Prince Regent has thought proper to decline to accede to the proposition for a suspension of hostilities, contained in my note of the 24th August.

It has been matter of surprise to me that my view with regard to the revocation of the Orders in Council, on the 23d of June last, should have been considered to have been incorrect, when it appears by your Lordship's note that the British Government itself has deemed it necessary to give powers to the British Admiral to stipulate for its full effect, and thereby admitted that a new act was required for that purpose.

It now only remains for me to announce to your Lordship, that it is my intention to embark immediately at Plymouth, on board the ship Lark, for the United States, and to request that permission may be granted, as soon as may be, for the embarkation of my servants' baggage, and the effects of this Legation, and that the necessary passports may be furnished for my own and their safe conduct to that destination.

I avail myself of this occasion to apprise your Lordship, that I am authorized by the Government of the United States to leave Reuben Guant Beasley, Esq., as its agent for prisoners of war in this country, and to desire that every necessary facility may be afforded him in the exercise of that trust by the British Government.

I have the honor to be, &c.

JONATHAN RUSSELL.

Rt. Hon. LORD CASTLEREAGH, &c.

Mr. Russell to Mr. Monroe.

LONDON, September 3, 1812.

SIR: I enclose herein a copy of a note received yesterday from Lord Castlereagh, which will acquaint you that I have obtained my passports to return to the United States, and that Mr. Beasley is permitted to remain here as agent for prisoners of war.

Immediately on demanding my passports, I addressed to the Consuls a circular, of which you will also find a copy enclosed.

The Swiftsure packet sailed on the 31st of last month from Falmouth for America, and it is very probable that she takes out instructions suggested by the overture made here, but there is no reason to believe that they can be of a nature to satisfy the United States.

I have the honor to be, &c.

JONATHAN RUSSELL.

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Lord Castlereagh to Mr. Russell.

FOREIGN OFFICE, Sept. 2, 1812.

SIR: I have laid before His Royal Highness the Prince Regent your letter of the 1st instant, in which you announce your intention to embark immediately at Plymouth, on board the ship Lark, for the United States.

I have already had the honor of forwarding to you an Admiralty order for the protection of that ship as a cartel, on her voyage to America; and I herewith enclose to you a passport for the free embarkation of yourself and family, in conformity to your request. The Lords Commissioners of His Majesty's Treasury will issue directions to the commissioners of the customs to give every facility to the embarkation of your effects.

If previous to your departure from England you can point out to me any particular manner in which I can facilitate your arrangements, I beg that you will command my services.

His Royal Highness has commanded me to signify to you, for the information of your Government, that there will be no difficulty in allowing Mr. R. G. Beasley, as stated in your letter, to reside in this country as the United States' agent for prisoners of war.

I have the honor, to be, &c.

CASTLEREAGH.

Mr. Russell to Mr. Monroe.

LONDON, September 19, 1812.

SIR: On the 12th I received your letter of the 27th of July last; and the copies of my note to Lord Castlereagh, and of his Lordship's reply enclosed herein, will inform you that the propositions made in consequence of it have been rejected.

As I have but this moment heard of the immediate departure of the Friends, I have time only to add, that I have received the communications of Mr. Graham, of the 9th and 10th of August, by the Gleaner, and that I leave London this evening to embark on board the Lark, at Plymouth, for New York.

I am, with great respect, &c.

JONATHAN RUSSELL.

P. S. An interesting interview took place between Lord Castlereagh and myself on the 16th instant, the account of which I must, for want of time, reserve until I have the honor to see you.

Hon. JAMES MONROE, &c.

[Enclosed in Mr. Russell's despatch of Sept. 19.]

Mr. Russell to Lord Castlereagh.

18, BENTINCK STREET,

September 12, 1812.

MY LORD: In consequence of additional instructions which I received from my Government this morning, I called about noon at the Foreign Office, and found with regret that your Lordship was out of town. My object was to communicate to your Lordship the powers under which I act, that you might perceive their validity and extent. I have, however, sought to state

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them substantially in the official letter which I have herewith the honor to transmit to your Lordship; but, should you find anything that stands in need of explanation previous to being submitted to His Royal Highness, I shall remain at 18, Bentinck street, to receive the commands of your Lordship. If your Lordship could, in courtesy, find any motive in my personal convenience to hasten a decision upon the propositions which I have submitted, the season of the year, my anxiety to depart, (all my arrangements being made, all my luggage having left town,) and the detention of the Lark at much expense, will plead powerfully in my favor. I have the honor to be, &c.

JONATHAN RUSSELL.

Mr. Russell to Lord Castlereagh.

18, BENTINCK STREET,  
September 12, 1812.

MY LORD: I hasten, authorized by instructions recently received from the Government of the United States, and urged by an unfeigned anxiety to arrest the calamities of war, to propose to your Lordship a convention for the suspension of hostilities, to take effect at such time as may be mutually agreed upon, and stipulating that each party shall forthwith appoint Commissioners with full power to form a treaty, which shall provide by reciprocal arrangements for the security of their seamen from being taken or employed in the service of the other Power, for the regulation of their commerce, and all other interesting questions now depending between them; and that the armistice shall not cease without such previous notice by one to the other party as may be agreed upon, and shall not be understood as having any other effect than merely to suspend military operations by land and by sea.

In proposing to your Lordship these terms for a suspension of hostilities, I am instructed to come to a clear and distinct understanding with His Britannic Majesty's Government, without requiring it to be formal, concerning impressments, comprising in it the discharge of the citizens of the United States already impressed, and concerning future blockades; the revocation of the Orders in Council being confirmed.

Your Lordship is aware that the power of the Government of the United States to prohibit the employment of British seamen must be exercised in the sense and spirit of the Constitution, but there is no reason to doubt but that it will be so exercised effectually, and with good faith.

Such a measure, as it might, by suitable regulations and penalties, be made completely effectual and satisfactory, would operate almost exclusively in favor of Great Britain; for, as few American seamen ever enter voluntarily into the British service, the reciprocity would be nominal, and it is sincerely believed that it would be more than an equivalent for any advantage she may derive from impressment.

By the proposition which I have now the honor to make in behalf of my Government, your Lordship will perceive the earnest desire of the Presi-

dent to remove every obstacle to an accommodation, which consists merely of form, and to secure the rights and interests of the United States in a manner the most satisfactory and honorable to Great Britain as well as to America.

The importance of the overture now made will, I trust, obtain for it the early consideration of His Royal Highness, the Prince Regent; and I shall detain the vessel in which I have taken my passage to the United States until I have the honor to learn his decision.

I have the honor to be, &c.

JONATHAN RUSSELL.

Lord Castlereagh to Mr. Russell.

FOREIGN OFFICE, *Sept.* 16, 1812.

Lord Castlereagh presents his compliments to Mr. Russell, and requests to have the honor of seeing him at his house in St. James's square, at nine o'clock this evening.

N. B. Received a little before five o'clock.

Mr. Hamilton to Mr. Russell.

FOREIGN OFFICE, *Sept.* 16, 1812.

DEAR SIR: I have not seen Lord Castlereagh since his receipt of your two last letters of —, but have received his directions to say to you that he cannot have it in his power to reply to them for a few days, or would have had much pleasure in attending immediately to your request in that respect. You may be assured that no delay will take place which can be avoided.

I am, dear sir, faithfully yours,

WILLIAM HAMILTON.

JONATHAN RUSSELL, Esq., &c.

Mr. Russell to Mr. Hamilton.

18, BENTINCK STREET,  
*September* 16, 1816.

DEAR SIR: I have learned, with much regret and disappointment, that Lord Castlereagh has directed you to inform me that it is not in his power to give an immediate answer to the last letters which I have had the honor to address to him. The object of those letters was of a nature to require an early decision; reluctant, however, by any precipitancy on my part to protract the present unhappy relations between the two countries, I beg you to acquaint his Lordship that I shall remain in town until Sunday, the 20th instant, when, unless some special and satisfactory reason be assigned for a longer delay, I shall consider it to be my duty to proceed to Plymouth to embark for the United States.

I am, dear sir, with great truth, &c.

JONATHAN RUSSELL.

N. B. Sent at three o'clock.

Lord Castlereagh to Mr. Russell.

FOREIGN OFFICE, *Sept.* 18, 1812.

SIR: Under the explanations you have afforded me of the nature of the instructions which you



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have received from your Government, I have, as on the preceding occasion, been induced to lay your letter of the 12th instant before His Royal Highness, the Prince Regent.

His Royal Highness commands me to express to you his regret that he cannot perceive any substantial difference between the proposition for a suspension of hostilities, which you are now directed to make, and that which was contained in your letter of the 24th of August last. The form of the proposed arrangement, it is true, is different; but it only appears to aim at executing the same purpose in a more covert, and therefore in a more objectionable manner.

You are now directed to require, as preliminary to a suspension of hostilities, a clear and distinct understanding, without, however, requiring it to be formed, on all the points referred to in your former proposition. It is obvious that, were this proposal acceded to, the discussion on the several points must substantially precede the understanding required.

This course of proceeding, as bearing on the face of it a character of disguise, is not only felt to be in principle inadmissible, but as unlikely to lead in practice to any advantageous result. As it does not appear, on the important subject of impressment, that you are either authorized to propose any specific plan, with reference to which the suspension of that practice could be made a subject of deliberation, or that you have received any instructions for the guidance of your conduct on some of the leading principles which such a discussion must, in the first instance, involve.

Under these circumstances, the Prince Regent sincerely laments that he does not feel himself enabled to depart from the decision which I was directed to convey to you in my letter of the 2d instant. I have the honor, &c.

CASTLEREAGH.

JONATHAN RUSSELL, Esq.

Mr. Russell to Mr. Monroe.

LONDON, *September 19, 1812.*

SIR: Since writing you this morning, fearing that this Government should infer from my silence an acquiescence in the strange and unwarrantable view which Lord Castlereagh has in his last note, thought fit to take of the overtures which I have submitted, and of the powers under which I acted, I have considered it my duty to return an answer, of which the enclosed is a copy. With great consideration and respect, I am, sir, &c.

JONATHAN RUSSELL.

HON. JAMES MONROE.

[Enclosed in Mr. Russell's despatch of Sept. 19.]

*Mr. Russell to Lord Castlereagh.*

LONDON, *September 19, 1812.*

MY LORD: I had the honor to receive last evening your Lordship's note of yesterday, and have learned, with great regret and disappoint-

ment, that His Royal Highness, the Prince Regent, has again rejected the just and moderate propositions for a suspension of hostilities which I have been instructed to present on the part of my Government.

After the verbal explanations which I had the honor to afford your Lordship on the 16th instant, both as to the object and sufficiency of my instructions, I did not expect to hear repeated any objections on these points. For itself, the American Government has nothing to disguise; and, by varying the proposition as to the manner of coming to a preliminary understanding, it merely intended to leave to the British Government that which might be most congenial to its feelings.

The propositions presented by me, however, on the 24th of August and 12th instant, are distinguishable by a diversity in the substance, as well as in the mode of the object which they embraced; as, by the former, the discontinuance of the practice of impressment was to be immediate, and to precede the prohibitory law of the United States relative to the employment of British seamen, when, by the latter, both these measures are deferred to take effect simultaneously hereafter. Having made a precise tender of such law, and exhibited the instructions which warranted it to your Lordship, I have learned, with surprise, that it does not appear to your Lordship that I am authorized to propose any specific plan on the subject of impressment. I still hope that the overtures made by me may again be taken into consideration by His Majesty's Government; and, as I leave town this afternoon for the United States, that it will authorize some agent to proceed thither and adopt them as a basis for reconciliation between the two countries, an event so devoutly to be wished.

I have the honor to be, &c.

JONATHAN RUSSELL.

Mr. Russell to Mr. Monroe.

ON BOARD THE LARK, *Nov. 7, 1812.*

SIR: I have the honor to inform you that I am now passing the Narrows, and expect to land at New York this day. I conceive it to be my duty to repair to the seat of Government, and shall set off as soon as I can obtain my baggage. In the mean time I am sorry to inform you that the second proposition for an armistice was rejected like the first, and a vigorous prosecution of the war appears to be the only honorable alternative left to us. I have the honor to be, &c.

JONATHAN RUSSELL.

HON. JAMES MONROE, &c.

Mr. Russell to Mr. Monroe.

WASHINGTON, *Nov. 16, 1812.*

SIR: I have the honor to hand you herewith an account of the conversation alluded to in a postscript to my letter of the 19th September, and which I had not then sufficient time to copy.

I have the honor to be, &c.

JONATHAN RUSSELL.

HON. JAMES MONROE, &c.

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[Enclosed in Mr. Russell's letter of November 16.]

*Mr. Russell to the Secretary of State.*

LONDON, September 17, 1812.

SIR: On the 12th instant I had the honor to receive your letter of the 27th of July last. I called immediately at the Foreign Office to prepare Lord Castlereagh, by imparting to him the nature and extent of my instructions, for the communication which it became me to make to him. His Lordship was in the country, and I was obliged to write to him without previously seeing him. I, however, accompanied my official note with a private letter, offering explanation, if required, and soliciting despatch.

I waited until two o'clock, the 16th instant, without hearing from his Lordship, when I was much surprised at receiving a note from Mr. Hamilton, the Under Secretary, indefinitely postponing an official reply. To give more precision to the transaction, I instantly addressed to him an answer, and a little before five o'clock, on the same day, I received an invitation from Lord Castlereagh to meet him at his house that evening at nine o'clock.

I waited on his Lordship at the time appointed, and found him, in company with Mr. Hamilton, at a table loaded with the records of American correspondence, which they appeared to have been examining.

I was courteously received, and, after a conversation of a few minutes, on indifferent subjects, I led the way to the business on which I came, by observing that I had once more been authorized to present the olive branch, and hoped it would not be again rejected.

His Lordship observed, that he had desired the interview to ascertain, before he submitted my communication of the 16th instant to the Prince Regent, the form and nature of the powers under which I acted. To satisfy him at once on both these points, I put into his hands your letter of the 27th July. I the more willingly adopted this mode of procedure, as, besides the confidence which its frankness was calculated to produce, the letter itself would best define my authority and prove the moderation and conciliatory temper of my Government.

His Lordship read it attentively. He then commented at some length both on the shape and substance of my powers. With regard to the former he observed, that all my authority was contained in a letter from the Secretary of State, which, as my diplomatic functions had ceased, appeared but a scanty foundation on which to place the important arrangement I had been instructed to propose. With regard to the extent of my powers, he could not perceive that they essentially differed from those under which I had brought forward the propositions contained in my note of the 24th of August. He considered that to enter with me into the understanding, required as a preliminary to a convention for an armistice, he would be compelled to act on unequal ground, as, from his situation, he must necessarily pledge his Government, when, from the nature of

my authority, I could give no similar pledge for mine. He could not, therefore, think of committing the British faith and leaving the American Government free to disregard its engagements. Besides, it did not appear to him that, at the date of my last instructions, the revocation of the Orders in Council on the 23d of June had been received at Washington, and that great hopes were entertained of the favorable effects such intelligence would produce there. The question of impressment, he went on to observe, was attended with difficulties of which neither I nor my Government appeared to be aware. "Indeed," he continued, "there has evidently been much misapprehension on this subject, and an erroneous belief entertained that an arrangement, in regard to it, has been nearer an accomplishment than the facts will warrant. Even our friends in Congress, I mean (observing, perhaps, some alteration in my countenance,) those who were opposed to going to war with us, have been so confident in this mistake, that they have ascribed the failure of such an arrangement solely to the misconduct of the American Government. This error probably originated with Mr. King, for being much esteemed here, and always well received by the persons then in power, he seems to have misconstrued their readiness to listen to his representations and their warm professions of a disposition to remove the complaints of America, in relation to impressment, into a supposed conviction, on their part, of the propriety of adopting the plan which he had proposed. But Lord St. Vincent, whom he might have thought he had brought over to his opinions, appears never for a moment to have ceased to regard all arrangement on the subject to be attended with formidable, if not insurmountable, obstacles. This is obvious from a letter which his Lordship addressed to Sir William Scott at the time." Here Lord Castlereagh read a letter, contained in the records before him, in which Lord St. Vincent states to Sir William Scott the zeal with which Mr. King had assailed him on the subject of impressment, confesses his own perplexity and total incompetency to discover any practical project for the safe discontinuance of that practice, and asks for counsel and advice. "Thus you see," proceeded Lord Castlereagh, "that the confidence of Mr. King on this point was entirely unfounded.

"The extreme difficulty, if not total impracticability, of any satisfactory arrangement for the discontinuance of impressment, is most clearly manifested by the result of the negotiation carried on between Messrs. Monroe and Pinkney and Lords Auckland and Holland. The doctrines of which these noblemen had been the advocates, when in opposition, bound them by all the force of consistency to do everything under their commission for the satisfaction of America, relative to impressment, which the nature of the subject would possibly admit. There were many circumstances on that occasion peculiarly propitious to an amicable arrangement on this point, had such an arrangement been at all attainable. Both parties accordingly appear to have exhausted their

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ingenuity in attempting to devise expedients satisfactorily to perform the office of impressment; and nothing can more conclusively demonstrate the inherent difficulty of the matter, and the utter impossibility of finding the expedient which they sought, than that all their labors, pursued on that occasion with unexampled diligence, cordiality, and good faith, should have been in vain."

His Lordship now turned to a letter in a volume before him, addressed at the close of the negotiation by these Commissioners to the American Ministers, conceived in the kindest spirit of conciliation, in which they profess the most earnest desire to remove all cause of complaint on the part of America concerning impressment, regret that their endeavors had hitherto been ineffectual, lament the necessity of continuing the practice, and promise to provide as far as possible against the abuse of it.

"If," resumed his Lordship, "such was the result of a negotiation entertained under circumstances so highly favorable, where the powers and the disposition of the parties were limited only by the difficulties of the subject, what reasonable expectation can be encouraged that, in the actual state of things, with your circumscribed and imperfect authority, we can come to a more successful issue? I shall have to proceed in so weighty a concern with the utmost deliberation and circumspection; and it will be necessary for me to consult the great law officers of the Crown. You are not aware of the great sensibility and jealousy of the people of England on this subject; and no Administration could expect to remain in power that should consent to renounce the right of impressment, or to suspend the practice, without the certainty of an arrangement which should obviously be calculated most unequivocally to secure its object. Whether such an arrangement can be devised is extremely doubtful, but it is very certain that you have no sufficient powers for its accomplishment."

Such was the substance, and, in many parts, the language of his Lordship's discourse. To which I replied, that the main object of my powers being to effect a suspension of hostilities, their form could not be material—it was sufficient that they emanated from competent authority, and were distinctly and clearly conferred; that in requiring as a condition to an armistice a clear understanding relative to impressment and other points of controversy between the two countries, it was intended merely to lay the basis of an amicable adjustment, and thereby to diminish the probability of a renewal of hostilities. To come to such an understanding, to be in itself informal, and which expressly left the details of the points which it embraced to be discussed and adjusted by commissioners to be hereafter appointed, was certainly within the instructions which I had received, and I could, of course, thus far pledge my Government for its observance. I did not acknowledge the force of his objection, predicated on the inequality of our respective powers, nor perceive how the British faith would be particularly committed. The faith of both Governments

would be equally committed for whatever was done under their respective authority; and although his Lordship might have power to go beyond the armistice and understanding for which I was instructed, yet there was no necessity for doing so; and while we acted within those limits, we stood on equal ground. And were it otherwise, yet, as the promise of the one party would be the sole consideration for the promise of the other, should either fail in the performance of its engagements, the other would necessarily be discharged, and the imputation of bad faith could alone attach to the first delinquent. Nor was I dismayed at the very formidable difficulties with which he had thought proper to array the subject of impressment; and, although willing to acknowledge my inferiority to the American negotiators who had preceded me in the matter, yet I was not disposed, on account of their failure, to shrink from the discharge of a duty imposed on me by my Government. To me, indeed, the whole question appeared much less alarming than his Lordship had described it to be; and that if Mr. King had really been mistaken with regard to the near completion of an adjustment, his Lordship must, on an attention to the *whole correspondence* at the time, acquit him from the imputation of any excessive want of penetration.

As to the supposed ignorance in America of the revocation of the Orders in Council at the time my instructions were dated, I observed, that if this ignorance did in fact exist, yet, from certain expressions in those instructions, an expectation of such a measure seems to have been confidently entertained, and the Orders in Council appeared no longer to form an obstacle to a reconciliation. However this might be, it ought not to be supposed that the American Government would be ready to abandon one main point for which it contended, merely because it had obtained another, which was generally considered to be of minor importance, and to submit to the continuance of impressment on account of the discontinuance of the Orders in Council. At any rate, having authorized me to propose terms of accommodation here, it would probably wait for information concerning the manner in which they had been received, before it would consent to more unfavorable conditions. In the mean time, the war would be prosecuted, and might produce new obstacles to a pacific arrangement. I was happy to learn that the failure of a former negotiation concerning impressment could not be ascribed to a want of sincerity and moderation in the American Government, and I hoped the mode now suggested for securing to Great Britain her own seamen might remove the difficulties which had hitherto embarrassed this question. If the people of England were so jealous and sensitive with regard to the exercise of this harsh practice, what ought to be the feelings of the people of America, who were the victims of it? In the United States this practice of impressment was considered as bearing a strong resemblance to the slave trade; aggravated, indeed, in some of its features, as the negro was pur-

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chased, already bereft of his liberty, and his slavery and exile were at least mitigated by his exemption from danger, by the interested forbearance of his task-master, and the consciousness that, if he could no longer associate with those who were dear to him, he was not compelled to do them injury; while the American citizen is torn, without price, at once, from all the blessings of freedom, and all the charities of social life, subjected to military law, exposed to incessant perils, and forced at times to hazard his life in despoiling or destroying his kindred and countrymen. It was matter of astonishment that, while Great Britain discovered such zeal for the abolition of the traffic in the barbarous and unbelieving natives of Africa, as to endeavor to force it on her reluctant allies, she could so obstinately adhere to the practice of impressing American citizens, whose civilization, religion, and blood, so obviously demanded a more favorable distinction.

I next pointed out to his Lordship the difference between the propositions which I now submitted and those contained in my note of the 24th of August. That although the object of both was essentially the same, there was great diversity in the manner of obtaining it. The discontinuance of the practice of impressment, which was before required to be immediate, and to constitute a formal preliminary to an armistice, was now deferred, to commence contemporaneously with the operation of the law of the United States prohibiting the employment of British seamen, and was consigned, with the other conditions, to a separate and informal arrangement. In this way it was, no doubt, intended, by respecting the feelings of the British Government, to obviate any objection which might have been the mere suggestions of its pride.

I finally offered, in order to answer at once all the observations and inquiries of Lord Castlereagh, that the proposed understanding should be expressed in the most *general terms*; that the laws, to take effect on the discontinuance of the *practice* of impressment, should prohibit the employment of the *native* subjects or citizens of the one State, excepting such only as had already been naturalized, on board the private or public ships of the other; thus removing any objection that might have been raised with regard to the future effect of naturalization, or the formal renunciation of any pretended right. With regard to blockades I proposed to follow the same course, and only to agree that none should be instituted by either party which were not conformable to the acknowledged laws of nations, leaving the definition of such blockade, and all other details, to be settled by the commissioners in the definitive treaty.

I was disappointed and grieved to find that these propositions, moderate and liberal as they were, should be treated in a manner which forbids me to expect their acceptance. I was even asked by Mr. Hamilton, if the United States would deliver up the native British seamen who might be naturalized in America. Although shocked at this demand, I mildly replied that such a procedure would

be disgraceful to America, without being useful to Great Britain; that the habits of seamen were so peculiarly unaccommodating, that no one would patiently go through the long probation required by law, to become a citizen of a country where he could not pursue his professional occupations; and that not to employ him in this way would be virtually to surrender him to Great Britain.

I was disposed to believe, however, that a reciprocal arrangement might be made for giving up deserters from public vessels.

Here, perhaps, I owe an apology to my Government for having, without its precise commands, hazarded the overture abovementioned, relative to British subjects who may hereafter become citizens of the United States. In taking this step, however, I persuaded myself that I did not trespass against the spirit of the instructions which I had received; and, had the proposition been accepted, I should not have been without all hope that it would have been approved by the President, as its prospective operation would have prevented injustice, and its reciprocity disgrace. Should I, however, urged by too great a zeal to produce an accommodation, have mistaken herein the intentions of the President, I still should have derived some consolation from reflecting that this proposition, thus frankly and explicitly made, afforded an opportunity of satisfactorily testing the disposition of this Government, and might be useful in removing much misconception and error. The refusal, indeed, of this proposition sufficiently explains the view with which I was assailed with the ostentatious parade of the abortive negotiations relative to impressment; the exaggeration of its pretended difficulties; the artificial solemnity given to its character; the affected sensibility to the popular sentiment concerning it; and the fastidious exceptions taken to my powers; and proves most unequivocally the predetermination of the British Government to reject, at this time, every overture for the discontinuance of this degrading practice.

Most unfeignedly desiring to suspend the existing hostilities between the two States, with a reasonable prospect of finally terminating them in a manner honorable to both, I perhaps pressed with too much earnestness the adoption of the arrangement which I was instructed to propose; for Lord Castlereagh once observed, somewhat loftily, that if the American Government was so anxious to get rid of the war, it would have an opportunity of doing so on learning the revocation of the Orders in Council. I felt constrained on this occasion to assure His Lordship, that the anxiety of the American Government to get rid of the war was only a proof of the sincerity with which it had constantly sought to avoid it; but that no event had occurred, or was apprehended, to increase this anxiety. His Lordship, correcting his manner, rejoined, that it was not his intention to say anything offensive, but merely to suggest, that if the American Government sincerely wished for a restoration of the friendly relations between the two countries, it would consider the revocation of the Orders in Council as

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affording a fair occasion for the attainment of that object. After a pause of a few minutes, he added, that if the United States did not avail themselves of this occasion, not only to put an end to the war which they had declared, but to perform the conditions on which those orders were revoked, the orders would, of course, revive. I could not forbear to remind his Lordship, that when I took this view of the subject, in my note of the 24th of August, he found it to be incorrect; but I hoped that now I was so fortunate as to agree with him on this point, some provision would be made, in case the terms proposed for an armistice should be accepted, to prevent the revival of those edicts. His Lordship attempted to explain, but I could not distinctly seize his meaning.

The conversation ended with an assurance on the part of his Lordship that he would, with as little delay as possible, communicate officially to me the decision of the Prince Regent; and I took my leave, forbidden to hope that, while the present councils and the present opinion of the American people prevailed here, this decision will be favorable.

I have the honor to be, &c.

JONA. RUSSELL.

His Excellency JAMES MONROE, &c.

Admiral Warren to the Secretary of State.

HALIFAX, N. S., Sept. 30, 1812.

SIR: The departure of Mr. Foster from America has devolved upon me the charge of making known to you, for the information of the Government of the United States, the sentiments entertained by His Royal Highness the Prince Regent upon the existing relations of the two countries.

You will observe, from the enclosed copy of an Order in Council, bearing date the 23d of June, 1812, that the Orders in Council of the 7th of January, 1807, and the 26th of April, 1809, ceased to exist nearly at the same time that the Government of the United States declared war against His Majesty.

Immediately on the receipt of this declaration in London, the Order in Council, of which a copy is herewith enclosed to you, was issued, on the 31st day of July, for the embargo and detention of all American ships.

Under these circumstances, I am commanded to propose to your Government the immediate cessation of hostilities between the two countries, and I shall be most happy to be the instrument of bringing about a reconciliation so interesting and beneficial to America and Great Britain.

I, therefore, propose to you that the Government of the United States of America shall instantly recall their letters of marque and reprisal against British ships, together with all orders and instructions for any acts of hostility whatever against the territories of His Majesty or the persons or property of his subjects; with the understanding that, immediately on my receiving from you an official assurance to that effect, I shall in-

struct all the officers under my command to desist from corresponding measures of war against the ships and property of the United States, and that I shall transmit, without delay, corresponding intelligence to the several parts of the world, where hostilities may have commenced, the British commanders in which will be required to discontinue hostilities from the receipt of such notice.

Should the American Government accede to the above proposal for terminating hostilities, I am authorized to arrange with you as to the revocation of the laws which interdict the commerce and ships of war of Great Britain from the harbors and waters of the United States; in default of which revocation, within such reasonable periods as may be agreed upon, you will observe, by the order of the 23d of June, the Orders in Council of January, 1807, and April 1809, are to be revived.

The officer who conveys this letter to the American coast has received my orders to put to sea immediately upon the delivery of this despatch to the competent authority; and I earnestly recommend that no time may be lost in communicating to me the decision of your Government, persuaded, as I feel, that it cannot but be of a nature to lead to a speedy termination of the present differences.

The flag of truce, which you may charge with your reply, will find one of my cruisers at Sandy Hook ten days after the landing of this despatch, which I have directed to call there with a flag of truce for that purpose.

I have the honor to be, &c.

JOHN BORLASE WARREN,

Admiral of the Blue, &c.

The Secretary of State to Admiral Warren.

DEPARTMENT OF STATE, Oct. 27, 1812.

SIR: I have had the honor to receive your letter of the 30th ultimo, and to submit it to the consideration of the President.

It appears that you are authorized to propose a cessation of hostilities between the United States and Great Britain, on the ground of the repeal of the Orders in Council, and in case the proposition is acceded to, to take measures, in concert with this Government, to carry it into complete effect on both sides.

You state, also, that you have it in charge, in that event, to enter into an arrangement with the Government of the United States for the repeal of the laws which interdict the ships of war and the commerce of Great Britain from the harbors and waters of the United States; and you intimate that, if the proposition is not acceded to, the Orders in Council, repealed conditionally, by that of the 23d June last, will be revived against the commerce of the United States.

I am instructed to inform you that it will be very satisfactory to the President to meet the British Government in such arrangements as may terminate, without delay, the hostilities which now exist between the United States and Great Britain, on conditions honorable to both nations

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At the moment of the declaration of war the President gave a signal proof of the attachment of the United States to peace. Instructions were given, at that early period, to the late *Chargé des Affaires* of the United States at London to propose to the British Government an armistice, on conditions which, it was presumed, would have been satisfactory. It has been seen with regret that the proposition made by Mr. Russell, particularly in regard to the important interest of impressment, was rejected, and that none was offered through that channel as a basis on which hostilities might cease.

As your Government has authorized you to propose a cessation of hostilities, and is doubtless aware of the important and salutary effect which a satisfactory adjustment of this difference cannot fail to have on the future relations between the two countries, I indulge the hope that it has ere this given you full power for the purpose. Experience has evinced that no peace can be durable unless this object is provided for. It is presumed, therefore, that it is equally the interest of both countries to adjust it at this time.

Without further discussing questions of right, the President is desirous to provide a remedy for the evils complained of on both sides. The claim of the British Government is to take from the merchant vessels of other countries, British subjects. In the practice, the commanders of British ships of war often take from the merchant vessels of the United States American citizens. If the United States prohibit the employment of British subjects in their service, and enforce the prohibition by suitable regulations and penalties, the motive for the practice is taken away. It is in this mode that the President is willing to accommodate this important controversy with the British Government, and it cannot be conceived on what ground the arrangement can be refused.

A suspension of the practice of impressment, pending the armistice, seems to be a necessary consequence. It cannot be presumed, while the parties are engaged in a negotiation to adjust amicably this important difference, that the United States would admit the right, or acquiesce in the practice of the opposite party, or that Great Britain would be unwilling to restrain her cruisers from a practice which would have the strongest tendency to defeat the negotiation. It is presumable that both parties would enter into the negotiation with a sincere desire to give it effect. For this purpose it is necessary that a clear and distinct understanding be first obtained between them, of the accommodation which each is prepared to make. If the British Government is willing to suspend the practice of impressment from American vessels, on consideration that the United States will exclude British seamen from their service, the regulations by which this compromise should be carried into effect would be solely the object of negotiation. The armistice would be of a short duration: if the parties agreed, peace would be the result; if the negotiation failed, each would be restored to its former state and to all its pretensions by recurring to war.

Lord Castlereagh, in his note to Mr. Russell, seems to have supposed that, had the British Government accepted the proposition made to it, Great Britain would have suspended immediately the exercise of a right, on the mere assurance of this Government that a law would be afterwards passed to prohibit the employment of British seamen in the service of the United States, and that Great Britain would have no agency in the regulations to give effect to that prohibition. Such an idea was not in the contemplation of this Government, nor is it to be reasonably inferred from Mr. Russell's note. Lest, however, by possibility such an inference might be drawn from the instructions to Mr. Russell, and anxious that there should be no misunderstanding in the case, subsequent instructions were given to Mr. Russell, with a view to obviate every objection of the kind alluded to. As they bear date on the 27th of July, and were forwarded by the British packet *Althea*, it is more than probable that they may have been received and acted on.

I am happy to explain to you thus fully the view of my Government on this important subject. The President desires that the war which exists between our countries should be terminated on such conditions as may secure a solid and durable peace. To accomplish this great object it is necessary that the interest of impressment be satisfactorily arranged. He is willing that Great Britain should be secured against the evils of which she complains. He seeks, on the other hand, that the citizens of the United States should be protected against a practice, which, while it degrades the nation, deprives them of their rights as freemen, takes them by force from their families and their country into a foreign service, to fight the battles of a foreign Power, perhaps against their own kindred and country.

I abstain from entering, in this communication, into other grounds of difference. The Orders in Council having been repealed, with a reservation not impairing a corresponding right on the part of the United States, and no illegal blockades revived or instituted in their stead, and an understanding being obtained on the subject of impressment in the mode herein proposed, the President is willing to agree to a cessation of hostilities, with a view to arrange by treaty, in a more distinct and ample manner, and to the satisfaction of both parties, every other subject of controversy.

I will only add that, if there be no objection to an accommodation of the difference relating to impressment in the mode proposed, other than the suspension of the British claim to impressment during the armistice, there can be none to proceeding without the armistice to an immediate discussion and arrangement of an article on that subject. This great question being satisfactorily adjusted, the way will be open for an armistice, or any other course leading most conveniently and expeditiously to a general pacification.

I have the honor to be, &c.

JAMES MONROE.

SIR J. B. WARREN.

*Relations with Denmark.*

## DENMARK.

*Mr. Erving to the Secretary of State, enclosing a correspondence with the Danish Minister of Foreign Affairs.*

No. 16.—Mr. Erving to Mr. Monroe.

COPENHAGEN, April 12, 1812.

SIR: My last despatch upon general business was No. 12. I therein mentioned the case of the "Jane Maria," which had been cut out of the port of Swinemunde by a French privateer. Subsequent to the date of that despatch the captain arrived, but in the intermediate time, a Frenchman had been put on board as a guard, and this became an obstacle to her departure. My correspondence with Mr. de Rosenkrantz on this affair is herewith submitted, viz: No. 1, December 10; No. 2, January 11; No. 3, January 15; No. 4, January 15; No. 5, January 16, of the enclosures. I understand that one of the crew of the "Jane Maria" has appeared before a notary, and sworn that, whilst the vessel lay at Swinemunde she had communication with the English, and was to have gone under their convoy. Should this declaration prove to be correct, yet I presume that she cannot therefore be condemned. The French Minister does not, however, find himself authorized to release her, but he momentarily expects orders from his Government on the subject. The papers of the vessel are in my possession.

In my despatch No. 10, I mentioned that of the cases which were pending on my arrival in Copenhagen, the "Minerva Smith," Mann, only remained to be adjudged, and that I had sought to delay it for the purpose of procuring, and in the hope of introducing before the tribunal some further evidence. A part of the evidence to which I referred was soon afterwards received from England, and laid before the Minister of State, in a note of December 13; a copy (No. 6) is enclosed, as it serves to explain the peculiar difficulties under which this, a property of very great value, was placed. No change having been produced by this representation in the opinion of the High Court, I obtained that the case should be laid before the Danish Chancery; and the report of that body not being sufficiently full and satisfactory, the case was transferred to the Sleswic Holstein Chancery, (on the king's own suggestion,) as Kiel, where the vessel was taken, being within the jurisdiction of that Chancery, the affair was not properly cognizable by the Danish Chancery. These various operations consumed a great deal of time; but finally towards the latter end of February the Sleswic Holstein Chancery produced a very laborious and voluminous report in favor of the case, pursuant to which His Majesty ordered the High Court to pass sentence of acquittal.

With my aforementioned despatch, No. 10, was transmitted copy of a note to Mr. de Rosenkrantz, (of September 28) respecting the then pending cases generally. Still further to promote the object of it I again addressed him on Novem-

ber 3, and in the progress of the business perceiving that the High Court had lost nothing of its disposition to condemn, and had actually determined to sacrifice one of the clearest cases in the whole list, (the "Brutus") on the 13th December, I thought it necessary to require that its proceedings should be arrested, and its opinions submitted to the King through his Chancery; (those two notes are Nos. 7 and 8 of the enclosed; the necessary order was immediately given, and thus two or three cases were saved from condemnation. But though the report of the Chancery on the case of the "Brutus" was favorable, that vessel was finally condemned; the particular circumstances of her case will be seen in my note to Mr. de Rosenkrantz of April 10th, and the sentence of the tribunal (Nos. 7 B and 8 B) of the enclosed papers.

At the date of said despatch No. 10, there were ten cases depending, exclusive of French captures, and inclusive of the "Hannah" and "Two Generals," double captures, as appears by the list which was therewith transmitted. In despatch No. 11, I mentioned the release of the "Horace" and "Augustus," two of the list, so that there were at that time only six cases of simple captures depending. I have now the satisfaction of informing you that the whole of these have been acquitted, the "Brutus" as above mentioned only excepted. The "Hannah" and "Two Generals," must, I fear, be determined in Paris. The French Government has proposed to the Danish, that without reference to these questions of jurisdiction, which have always been found so difficult to arrange to the satisfaction of all parties, the simple rule shall be adopted of determining the question of prize in the tribunals of the country to which the captor may belong, in all cases where he may possess himself of the captured vessel's papers. This proposition has not been, nor do I believe that it will be, acceded to by the Danish Government; yet, sir, you will readily perceive that if the French Government should persist, there can be very little expectation of our obtaining from this, the release of a vessel which may have been condemned by the Council of Prizes. There is even some reason to apprehend that it will so persist, since the French Consul has now received orders from the Minister of Marine to transmit to Paris the papers of the ship "Olive Branch," which, as mentioned in my despatch No. 12, was seized under the very guns of the fort of Nyborg; and this case is peculiarly strong, since the "Olive Branch" had his Danish Majesty's license on board. But I must in this place also mention that my correspondence with Mr. Desaugiers (lately French Chargé d'Affaires here) which was submitted to you with despatch No. 8, having been also submitted to his Government, he is now answered by the Duke of Bassano, in terms strongly representing the excesses of the corsairs in general, and particularly reproving their practice of hoisting the French flag on board the vessels captured, of which he strictly forbids the recurrence.

The "Rachel," "Rover," and "Packet," three

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vessels (on the pending lists heretofore transmitted) which have been released, being partly laden with "colonial produce," were, pursuant to the established regulations with regard to vessels so laden, ordered to quit the port and to proceed on their voyages; the French privateers were then watching for and would infallibly have captured them on their departure. The copies herewith enclosed, viz: my notes to Mr. de Rosenkrantz of November 27, 28, and 29, (Nos. 9, 10, and 11,) Mr. de Rosenkrantz's unofficial note of December 1st, (No. 12,) my reply of same date (No. 13,) Mr. de Rosenkrantz's official note of December 2d, (No. 14,) relate to this matter, which you will be pleased to observe was very satisfactorily settled.

The last list of vessels which had passed this way was dated October 9: since then a few scattered vessels have presented themselves, viz:

The "Dolphin," Latham, "America," Briggs, from Petersburg to the United States, passed without interruption.

"Ann," How, arrived safely at Christiansand. "Sally," Brown, turned away from Amsterdam by the English, continued her voyage towards this place, and was wrecked on the coast of Jutland.

"Adriana," Abrahams, of Baltimore, belonging to Smith and Co., with a cargo of hides, convoyed by the Danes from Gottenburg to Copenhagen, (having Danish license,) cargo sold in Copenhagen and reconvoyed to Elsinour.

"Columbia," Jennison, (owners unknown,) from St. Ubes, with salt, much under the same circumstances.

"Swanwick," Clark, with a cargo of tobacco, property of Pratt and Kintzing of Philadelphia, ditto.

"Asia," Ormsby, (Brown and Ives of Providence,) with three thousand five hundred chests of tea, arrived at Gottenburg some months since, in her voyage from thence to Copenhagen, captured by a Danish privateer, but immediately released, having the King's permission to come hither and sell.

This completes the account of our trade for the last year as far as particulars have come to my knowledge. In my despatch No. 12, I transmitted certain statements relating to that trade; triplicates of those statements were sent with No. 14, with the addition of a printed tariff of the duties payable on all merchandise passing through the Sound: a duplicate of the tariff is herewith enclosed. I have lately seen a printed statement of our exports from Petersburg during the last year, made by a commercial house of that place. It agrees in general with the document No. 3, enclosed in my aforesaid despatch. It is however more complete as to the number of vessels, including all those which went up through the Belt, and gives a total of 127, (noting that in 1810 the total was only 100 only,) but states that 29 of the 127 were bound to European ports, having as part of their cargoes 23,615 *poods of flax*! Most of these 29 probably returned through the Belt; such as passed the Sound must have had false

clearances. In the course of judicial investigations the Danes have already discovered, as is supposed, sufficient grounds for distrusting the character of our commerce: such printed information from what is called a "respectable American house" at Petersburg, recommending itself to its correspondents by this species of industry, cannot fail to augment that distrust.

All the old and new cases being now disposed of, I herewith enclose a table (No. 19) bringing the whole of them and the proceedings which have been had on them into one view. I beg you, sir, to observe, that of thirty-eight cases of Danish captures on the list of 1811, there have been only three appeals of the captors against the sentences of acquittal given by the inferior tribunal, so little have been their expectations of procuring final condemnations, and that excepting the three English and English license cases, ("President," "Neptune," and "Aurora,") there has been but one final condemnation, viz. the "Brutus."

I hope that upon the whole this view will be satisfactory to the President. Mr. de Rosenkrantz told me in an early interview that the administration of justice was as impartial and as prompt here as in any other country; he added (referring to the disposition of the King) that in future we should have nothing to complain of. How far his assertion was correct, or his promise has been complied with, I will not presume to determine; but I must do that Minister the justice to say, that he spoke with perfect sincerity, and under impressions the most just and friendly, and to believe that where the results fall short of our expectations, it has not been from any failure of those dispositions.

I have taken occasion in former despatches to mention, and in frequent representations to Mr. de Rosenkrantz, to remonstrate against the practices of fining and taxing vessels acquitted in the tribunals. These practices, nearly indiscriminate as they are, I found to be quite unreasonable, in their application frequently most unjust; yet after all, for the amount of the exactions, they are not oppressive, perhaps had they been abolished altogether we might not have had quite so many vessels captured; there would certainly have been more appeals and might have been more condemnations. The lists herewith enclosed (papers marked No. 20) show the sums which the cases have been charged under the several heads of costs, fines, and two per mille tax in the tribunal of Copenhagen: the two two per mille goes to the King's coffers; the fine goes to the captor for his trouble in capturing, where he is supposed to have had just grounds of suspicion; the court expenses are invariably forty rix dollars (equal to five and a half dollars) in each case. There are no other expenses but advocate's fees; here, as in all countries, the amount of these is settled by agreement between the counsel and client; in the inferior tribunal no advocate is employed.

The situation of the masters of our vessels condemned here was formerly made the more distressing by the prosecutions to which they were



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exposed on account of wages due to their sailors, the laws here compelling them to provide for their crews: these laws had been executed with great rigor, and large sums had been frequently adjudged to be paid by masters who could scarcely find credit for their own subsistence. The Consul had, by frequent representation, endeavored to remedy this evil, but without success. When I came to act in this matter I was answered, that if the master deceived the men by engaging them in a vessel which was not in fact American, as he pretended, it was but just that he should pay them, his sufferings then were chargeable only to his own misconduct: however, I finally obtained that it should be laid before the Chancery; that tribunal, by a report of January 11, adopted by His Majesty, decreed that "no lawsuit regarding the wages due to North American mariners from their captains shall be admitted before the tribunals." I did not succeed in obtaining payment for men out of the condemned vessel, but on this point thought it not prudent to go far.

I have the honor to be, &c.

GEORGE W. ERVING.

Mr. MONROE, *Secretary of State.*

No. 7—B.

COPENHAGEN, April 10, 1812.

SIR: In one of the first interviews which I had with your Excellency, you assured me, on the part of His Majesty, "that, for the future, the United States, should have nothing to complain of;" fully relying then on the good faith and friendly sentiment in which this declaration was made, to those favorable dispositions of His Majesty I have addressed all my subsequent reclamations; and the reports which I have, from time to time, submitted to my Government, have corresponded to the harmony thus established in our proceedings. Judge then, sir, with what extreme concern and regret I now find myself under the necessity of protesting and reclaiming against a sentence of the High Court of Admiralty, grounded on the King's own decision, against the American ship *Brutus* and her cargo, the genuine property of American citizens; in favor of which I have been for several months negotiating with your Excellency; respecting which I have furnished documentary evidence of great importance, and the circumstances of which I was so fully authorized to consider as peculiarly favorable. Judge, sir, of the concern with which I see, in the sentence now given, that the reclamation which I have made, in this case, has been passed over; the documents which I have furnished have been set aside; and that grounds for condemnation have been assumed, wholly insufficient, and, in part, even contrary to facts as established by these documents. I am perfectly certain that His Majesty does not believe that I am capable of attempting to support any cause but the just cause of a genuine American citizen; nor shall I readily abandon the conviction that he is still actuated by the just and friendly dispositions which motivated the declaration above

cited; hence I must presume that the misrepresentations which have been made to him, and the influence which has been produced in his mind, on the present occasion, are of a very extraordinary character; this conclusion is the more unavoidable since, certainly, I have long since succeeded in convincing your Excellency, who has such high and indisputable title to the entire confidence of His Majesty, that the cause of the *Brutus* is a just one, nor can I, in this view, fail to notice that the opinion of the Chancery was in its favor, that there was a division of opinion amongst the members of the High Court, and that the vessel was fully acquitted by the Inferior Court in Norway. By my note of December 13, 1811, I furnished to your Excellency proofs that the captor's appeal from that sentence had been made only because the American captain (Fenno) refused to pay six thousand rix dollars by way of compromise; and this complaint having been laid, by His Majesty's order before, and having been duly investigated by the Chancery, was deemed to be so well founded and so reasonable, that a new and severe law upon that subject was judged to be expedient. This is, in fine, the only case which has come before the King, wherein he has decided unfavorably against a prior sentence of acquittal by one of his tribunals; and it is the only case, as far as I know, wherein a difference of opinion amongst the members of the High Court existing, he has not decided in favor of the claimant. To the just and liberal principles which actuated His Majesty on such occasions, in this case was added that which, even in default of other favorable circumstances, it was to be supposed, could not but determine him to release the vessel; the offer on the part of the captors, and the refusal on the part of the American captain, to compromise; for what stronger presumption can be furnished against the justice of the captors' claim than their offer to compromise it for a small sum, or what more favorable to a belief in the American captain's innocence than his refusal to pay that sum?

By the copy of the sentence, which I have herewith the honor to enclose, your Excellency will perceive that the tribunal has commenced by an assertion that Captain Fenno, during his detention, attempted to escape, and that upon this supposed attempt are grounded its "suspicions;" but in the note which I addressed to you on the 4th of January I enclosed a document which proved most incontestably that no such attempt was made, and that the assertions of the captors, in this respect, were altogether false: how astonishing, then, that the High Court should venture to place its sentence on such ground. The other motive mentioned in the sentence, considered as objections to the neutrality of this ship and cargo, are scarcely entitled to comment. What, if different handwritings are found in a sea-letter, which issued from a department where many clerks are employed? What, if "omissions" or "errors" in such or other documents? I must observe, however, that the sea-letter in question was submitted to the examination of the Ameri-

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can Consul, Mr. Saabye; and that he gave a formal certificate that the paper was genuine, which certificate was submitted to the Court by the claimant's counsel. As to the certificates of the French Consul, the American captains must receive them as the Consuls may please to give them, with whatever errors or absurdities they may contain; but it is worthy of particular observation, that the objection made, in this case, to the French Consul's certificate, originated in the tribunal itself. The captor did not deem that certificate to be of any importance; no objection was taken to it in any of the prior proceedings; the counsel of the American captain, of course, had not any opportunity of defending his client on that head.

We herein see an innovation on judicial proceedings, of a character entirely novel—the court placing itself in the situation of the accusing party, and condemning the property in litigation, on grounds not assumed by the captor. The only documents of real importance to be considered, are—1. The register. Is it, or is it not, a genuine document, proving the vessel to be the property of the persons therein named? 2. The clearance. Did the vessel, or did it not, come from New Orleans, as the captain pretends? 3. The bills of lading and invoice. Do they, or do they not, describe the cargo actually on board? These points, satisfactorily established, what else can be wanting, where the intention is to do justice to the captured, and to respect the neutral rights of the country to which he belongs? I can assure your Excellency, in fine, that of all the decisions which have taken place since my arrival here the one now in question is the most extraordinary. If, amongst all the just cases in which I have interfered, there was one which appeared to me to stand most clear from difficulties of all kinds, it was this of the *Brutus*;—and I was still more gratified in the confidence which I have indulged, that the vessel would be acquitted, because it was the last remaining on the list of captures which have occurred since my arrival here. What may be the merits of the captors, in the view of the King, I will not presume to conjecture; but I am sure that they cannot have any which can interfere with a due application of His Majesty's just principles, or any in relation to this case which are not founded on misrepresentation. I must, therefore, earnestly request that your Excellency will lay this representation before him; and I do confide, that, when His Majesty sees what I have stated, and is pleased to consider the enclosed sentence of his tribunal, he will think proper to reverse it, and to order the restitution of the property thus condemned. I have, &c.

GEORGE W. ERVING.

No. 8, B.—*Translation from the Danish.*

Copy of the sentence pronounced by the High Court of Admiralty, in the case No. 164.

Captain JOHN FENNO, *vs.* J. T. SAMUELSEN, *et al.*

As Captain Fenno's conduct during the detention in endeavoring to escape the privateers must

render him suspicious, and therefore authorize the capture, so his later conduct affords a grounded reason for calling his neutrality into question.

Besides, in the very documents by which Captain Fenno wants to prove the nationality of the vessel, and the legality of the voyage, there are found such deficiencies, that the precepts contained in the prize act, in this respect, cannot be looked upon as being accomplished.

1. The sea-letter is not in the usual order, as partly it is not filled out, and partly an elucidation is wanting in several places respecting the domicile and burden of the vessel. The only place where the burden is mentioned, is perceptibly added by a strange hand. Thus, the sea-letter can only be considered as a blank, arranged per *males artes* for the use of the vessel.

2. The attest found on this certificate of the cargo, under the name of the French Consul, must be false. Though the French Consuls might still, in the year 1811, have made use of the insignia of the French Republic, still it can no wise be admitted that words without meaning should have been inserted in their seals, which words are even put in a reversed manner. Thus, this seal must be counterfeited, by which no caution or accuracy has been observed, in order to imitate the true one. But, if the seal be considered as false, it also follows from thence, that the same must hold good with respect to the attest, the genuineness of which the seal is to confirm. And from this it further results, in pursuance of the prize act, and His Majesty's resolution communicated the 23d October, 1810, to this high court, that such a false attest vitiates the authenticity of all the other documents, even if they are in apparent order:

*Decreed—*

The ship *Brutus*, John Fenno, master, together with her cargo, litigated in this case, are hereby adjudged to Jens Tobias Samuelsen, and other privateer captains, as a good prize. The court charges of the prize court shall be paid out of the ship and cargo. For the rest, the costs of the process are annulled.

The High Court of Admiralty in Copenhagen, the 7th of April, 1812.

WLEUGEL.

I certify the correctness of the copy.

N. TERBOL.

I certify that I have truly and faithfully translated the above from the Danish.

Witness my hand and seal of office, Copenhagen, 8th of April, 1812.

N. HENRIQUES,  
*Translator Royal.*

No. 20.

Extract from the list of vessels captured or detained in the year 1811. This extract being of those which were tried and released by sentences of the prize court in Copenhagen, from which the captors did not appeal; and showing the

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amount of costs, fines, and taxes under the two per mille law, paid in virtue of said sentences.

LIST OF CASES.				
Vessels.	Captains.	Two per mille.	Expenses of court.	Fines.
		Rix dolls.	Rix dolls.	Rix dolls.
Phoenix -	Freeman -	92	40	800
Swift -	Clarkson -	250	40	00
Augustus -	Flint -	600	40	400
Dover -	Burrough -	118	40	30
William -	Goodwyn -	92	40	30
Experim't -	Vibbert -	320	40	150
Swift -	Daggett -	160	40	00
Zodiack -	Millar -	1,212	40	800
Egeria -	Law -	902	40	00
George -	Howland -	320	40	00
Sukey -	Osgood -	400	40	00
Lion -	Jones -	1,412	40	1,000
Concordia -	Johnson -	2,000	40	00
Packet -	Somes -	648	40	1,000
Jane Ma- ria -	Moffatt -	36	40	600
Rover -	Groves -	392	40	600
Augustus -	Flint -	1,094	40	1,500
Horace -	Leach -	828	40	1,500
		10,876	720	8,410

RECAPITULATION.				
Amount of two per mille	-	-	-	10,876
Amount of expenses	-	-	-	720
Amount of fines	-	-	-	8,410
Total amount, rix dollars,				20,006

N. B. The Danish rix dollar may be estimated, in this account, at an average of seven and a half, equal to one Spanish.

This extract does not contain the vessels released by the prize court in Norway, viz :

Høbe, Parson; Pilot, Gower; Industry, Cook; Fame, Perry; Comet, Dennis.

Nor the "Rachel," Mattently, released at Aalborg.

Nor the "Delaware," Gill, and "Dolphin," Latham, which were released on the preliminary examinations.

Nor the "Herald," Silsby, which was neither fined nor taxed, but received eight Spanish dollars for each day's detention—all costs paid by the captor.

Extract from the lists of cases which were pending on the 30th of May, 1811, and of those which occurred during the year 1811, subsequent to the 30th of May. This extract containing all such cases as have been acquitted on appeals to the High Court of Admiralty in Copenhagen, and showing the amount of costs, fines, and taxes, un-

der two per mille law, decreed against them in the sentences of said high court :

LIST OF CASES.				
Vessels.	Captains.	Two per mille.	Expenses of court.	Fines.
		Rix dolls.	Rix dolls.	Rix dolls.
Egeria -	Law -	550	40	1,000
	Cunning- ham -			
Oscar -	ham -	400	40	00
Minerva -	Baker -	408	40	1,000
Pittsburgh -	Yardsley -	322	40	00
Richmond -	Jarvis -	212	40	1,000
Amiable -				
Matilda -	Hague -	332	40	00
Nimrod -	Smith -	356	40	1,000
William & Jane -	Bunker -	760	40	2,000
Rachel -	Joseph -	548	40	00
Washing- ton -	Almy -	652	40	00
Washing- ton -	Brown -	246	40	2,000
John -	Raynolds -	540	40	00
Jeremiah -	Russell -	438	40	00
Nancy -	Eveleth -	246	40	1,000
Joseph -	Allan -	352	40	00
Theresa -	Phelps -	156	40	700
Laura -	Lambert -	404	40	1,500
		6,922	680	12,200

RECAPITULATION.				
Amount of two per mille	-	-	-	6,922
Amount of expenses	-	-	-	680
Amount of fines	-	-	-	12,200
Total amount, rix dollars,				19,802

N. B. This extract does not contain the "Ariel," Butler; "Fair Trader," Craig; "Minerva Smyth," Mann; acquitted by virtue of decree of Sleswick Holstein Chancery.

Nor the "Maryland," Peters; in which case sentence had not issued at the closing of this list.

GEORGE W. ERVING.

COPENHAGEN, April 10, 1812.

No. 17.

Mr. Erving to Mr. Monroe, Secretary of State.

COPENHAGEN, April 12, 1812.

SIR: With my despatch, No. 10, was submitted to you a copy of the reclamation, dated November 4, which I thought it my duty to make against the sentences of condemnation passed by the Danish tribunals, in the years 1809 and 1810, on American ships and cargoes. Mr. de Rosen-

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krantz was prevented at first by ill health, and afterwards for a long time by pressure of various business (as I understood) from laying it before the King; in the meantime he continually discouraged any expectation that His Majesty would accede to the propositions which it contains, persisting in his declaration to me on my first arrival here, that there was no remedy for the past. Finding that in the usual course of business it was necessary for the Minister to inform himself fully and particularly as to the contents of the note, so as to submit it to the King by abstract only, I thought that I might at once expedite my object, and add to the probability of success in it, by having the note translated into the Danish language; I sent such a translation to the Minister, on the 22d of January, requesting (by No. 1 of the enclosures) that the whole might be laid before the King. This was done on the 14th of February, and on the same day the Minister addressed to me the note, No. 2, relating to Danish claims on our Government, to which I answered, on the 17th of February, as by No. 3, and on the 9th instant I finally received the Minister's reply to my reclamation of November 4, (No. 4 of the enclosures.)

All my former communications, sir, have prepared you for this result, and the most extraordinary delay of the King in announcing it, though so far creditable to him, inasmuch as it denotes the reluctance with which he has come to a conclusion which he cannot conscientiously approve of, and which he has not found any admissible pleas to support or to countenance, yet has also afforded me the means of ascertaining that no favorable change of this determination is to be hoped for.

All the business which my appointment had in view being now completed, and as there is not, as far as I know, one American vessel actually under detention (by Danish capture) in any port of this Kingdom; after answering the Minister of State's note in suitable terms, I propose, pursuant to my instructions, to take leave and depart for Paris. I wrote yesterday to Mr. Barlow for passports, and as soon as they arrive, which may be about the commencement of next month, I shall be entirely ready to make use of them. In the meantime, I send home with this, and other despatches, my Secretary, Mr. Lewis, whose fidelity, industry, and zeal in the public service, I so entirely approve of, that I cannot but recommend him to your patronage and protection. Previous to my departure I propose, as I have before mentioned to you, to present Mr. Forbes in the quality of "agent" to the Minister of State, and to the other departments of Government here, and I doubt not but that if any of our vessels should hereafter be captured by Danish cruisers, he will be able to afford them every assistance of which their cases may be susceptible, and that his respectability of character and his other qualifications will procure due attention to his official representations. I hope also that on my return to Paris I may be able to assist Mr. Barlow in obtaining a favora-

ble adjustment of the questions which have arisen out of the French captures in this quarter.

It seems to be scarcely probable, even if we should not be at war with England, that any of our vessels which may have left the United States for Russia will, if they touch at Gottenburg for information, proceed on their voyages; for either the Emperor of France will occupy the Russian ports, or the Emperor of Russia will submit to his terms; in either of which cases those ports will be rigorously closed against "colonial produce." If the Emperor of Russia should successfully resist, then his country will be inundated with whatever we can supply by the commerce of England; in this last case it is not to be supposed that the English will take any neutral vessels under their convoy; in the two former cases the neutral will not have any motive for joining convoy: on the other hand, the French cruisers will certainly intercept every vessel not under convoy, which may enter the Baltic with colonial produce; and it is equally certain that such cruisers will be sufficiently numerous; for, independent of the privateers properly French, the Danes have found so little encouragement for privateering during the last twelve months, that many of them are reduced to the necessity of seeking French commissions.

Mr. Lewis will carry with him the original of my despatch, No. 10, which encloses authentic copies of the sentences therein referred to; in these, sir, you will notice more particularly the extraordinary principles and offensive doctrines on which the tribunals have founded their decisions; and in case our country should still continue in peace, Government, having the whole matter before it, will be able to give our commerce such direction, and to place it under such regulations as may best comport with its future security.

With the most perfect respect and consideration, I have the honor to be, sir, your very obedient servant.

GEORGE W. ERVING.

Hon. JAMES MONROE.

*Secretary of State.*

No. 1.

Mr. Erving to Mr. Rosenkrantz.

COPENHAGEN, *January 22, 1812.*

SIR: I have the honor herewith to enclose a translation into the Danish language of my note to your Excellency of November 4, and of the statement thereto annexed. These I have caused to be prepared with particular care, trusting that you will be pleased to lay them in their entire form before His Majesty.

I cannot but take this occasion of renewing to your Excellency the expression of my earnest desire that you would enable me to transmit to my Government His Majesty's resolutions on the subject; nor of my anxiety that those resolutions, marked by the enlightened and friendly policy which I have anticipated in my reports to

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my Government, may correspond to the just expectations of the United States, and cement that harmony and good understanding between the two countries, which ought always to subsist.

I have the honor to be, &c.

GEORGE W. ERVING.

MR. DE ROSENKRANTZ, &c.

No. 2.

[TRANSLATION.]

COPENHAGEN, *February 14, 1812.*

The Danish brig *Henrick*, Captain *Scheel*, departed from Cape François in 1799, was captured in the month of October, of the said year, by a French privateer, and recaptured a few days after by the United States' ship *Pickering*, which took her into the island of St. Christopher's, where she was condemned on the ground of being recaptured, whereby the owner only obtained about one-eighth part of the value of the vessel and cargo.

The American Government ought to be held responsible for this measure, having by their instructions of March 12, 1799, authorized her armed vessels to recapture all prizes taken by the French privateers. The sentence of condemnation, pronounced, appears also, to contain an inadmissible application of the American laws, which do not relate to the recapture of *neutral* vessels. The two accompanying printed documents prove that Mr. Madison, then Secretary of State of the United States, recognised the validity of the claim, and recommended the interest of the claimant to Congress. The owner, however, having been frustrated in his attempt to obtain the compensation due to him, has been obliged to institute a suit against the officers who recaptured his vessel, of which he is still waiting the issue.

A similar claim was preferred by the owner of the ship *Mercator*, captured in 1800, by Lieutenant *Maley*, commander of the United States' vessel *Experiment*, afterwards taken by a British cruiser, which carried her to Jamaica, where she was declared a good prize.

It is shown by the annexed printed report that damage to the amount of \$33,864 has been awarded to the owner in this case; but he has not yet been able to obtain payment.

In presenting these claims to the notice of Mr. Erving, the special Minister of the United States of America, the undersigned Minister of State, and Chief of the Department of Foreign Affairs, flatters himself, that he will lay them before his Government, and endeavor to obtain for the parties interested that indemnity which the justice of their claims so evidently calls for, but which the intervention of His Majesty's *Chargé d'Affaires* has not, to the present period, been able to accomplish.

The undersigned, in praying Mr. Erving to have the goodness to return him the enclosures, avails himself of the opportunity of renewing the continued assurance of his high consideration.

N. ROSENKRANTZ.

No. 3.

Mr. Erving to Mr. de Rosenkrantz.

COPENHAGEN, *Feb. 17, 1812.*

SIR: I have received your Excellency's note of the 14th instant, relating to two claims of Danish subjects on the Government of the United States. I am uninstructed as to those claims, otherwise than by that note, and by the documents which it enclosed. In these I perceive, with great satisfaction, that during a war of two years between the United States and France, at a time when the Danish commerce was in activity, and the Western ocean was covered with American cruisers, the causes of complaint afforded to this country were confined to these cases; one of them a mere question as to the amount of salvage exacted on a recapture, and both of them grounded on the errors or misintelligence of officers employed on foreign stations; that these reclamations do not involve any misconduct of American tribunals, any violation of public law, any offence of neutral rights, or any bad faith or unfriendly disposition of the Government of the United States; but, on the contrary, that in every stage of the claims a love of justice, a respect for neutral rights, and a frank, generous, and friendly character towards Denmark, has been continually manifested by that Government; and, finally, that complete satisfaction to the claimants has hitherto been delayed by causes, which, though beyond the control of the Executive, do not forbid the expectation of redress.

I shall have the honor to submit to my Government a copy of your Excellency's note, adding whatever may be proper, on my part, to promote the object of it. I renew, &c.

GEORGE W. ERVING.

I return herewith the printed papers which were enclosed in your Excellency's note.

M. DE ROSENKRANTZ.

No. 4.

[TRANSLATION.]

COPENHAGEN, *April 9, 1812.*

The undersigned, Minister of State of the Department of Foreign Affairs, having laid before His Majesty the note which Mr. Erving, the special Minister of the United States of America, addressed to him the 4th November of last year, the principal object of which is to claim the revision of several sentences, definitively pronounced by the Supreme Tribunals of Admiralty, which the Special Minister considers ill-founded, and, in opposition to the principles he maintains, ought to serve as a basis to the proceedings on prizes, and rules for the judges authorized to pronounce between the captors commissioned by the Danish Government, and the captors and owners whose vessels have been captured under the flag of the United States, is authorized by the orders of His Majesty to make known to Mr. Erving, Special Minister of the United States, that the King's very particular sentiments of friendship for the United States, and his esteem for the President,

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cannot influence him to permit a revision of the sentences pronounced, terminating the causes arising from captures made by the cruisers under the flag of the United States.

The Special Minister will be pleased to find in this assertion, which is founded on the facts he may have made himself acquainted with since his residence here, that the American flag has on all occasions been treated in the maritime tribunals conformably to the rules established, precisely in the same manner as the neutral flags of Europe.

The undersigned is moreover authorized to observe to Mr. Erving, Special Minister of the United States, that if permission were given to the captured, who have pleaded before the tribunals which have decided by a definitive sentence between the parties, to make in their favor, revision of the causes terminated, the same indulgence should be given to the captors, who might complain of the sentences pronounced against them, and that in this manner the causes arising from prizes would experience indefinite delays, as prejudicial to the captured, as to the captors.

The undersigned, in expressing to Mr. Erving his regret at not being able to grant what the Special Minister proposed to him, has the honor to renew to him the assurance of his high consideration.

ROSENKRANTZ.

No. 19.

Mr. Erving to Mr. Monroe, Secretary of State.

COPENHAGEN, 17th April, 1812.

SIR: I have the honor herewith to enclose the reply of Mr. de Rosenkrantz to the last reclamation, which I presented to him in the case of the "Brutus," a copy of which was transmitted with my despatch, No. 16.

With the most perfect respect and consideration, sir, your very obedient servant.

GEORGE W. ERVING.

[TRANSLATION.]

COPENHAGEN, April 6, 1812.

The undersigned, Minister of State and Chief of the Department of Foreign Affairs, has not failed to attend to the reclamations which Mr. Erving, the Special Minister of the United States of America, made to him under date of the 23d September, 23d November, and 13th December, of the last year, in favor of the different American vessels, and specially in that of the Brutus, Fenno, master, captured and brought into a port of Norway.

It is known to Mr. Erving, that the causes of the vessels, mentioned in the list of the 13th of December, have all been decided in favor of the captured, with the exception of the Maryland, now waiting a decision, and of the Brutus, which, as well as the others, have been reported to the King.

It is with regret that the undersigned is obliged to inform the Special Minister, that His Majesty,

after having examined into this affair, has thought proper to leave to the Supreme Tribunal of Admiralty the pronouncing of the sentence, conformably to the principles and instructions prescribed to this tribunal by the regulations concerning privateers, and the ordinances regulating the proceedings before the Supreme Tribunal, and that this tribunal considers itself authorized to condemn both vessel and cargo for the reasons expressed in the sentence.

The decision of the King having been acted upon before the note of Mr. Erving, under date of the 10th instant, reached the undersigned, as the Special Minister will see by the date of the annexed copy of sentence, he has not been able to make use of the reiterated reclamations of Mr. Erving.

The undersigned flatters himself to be able shortly to inform the Special Minister, that the cause of the ship Maryland has been decided favorably.

He has the honor to renew to him the assurance of his high consideration.

ROSENKRANTZ.

No. 20.

Mr. Erving to Mr. Monroe.

COPENHAGEN, April 18, 1812.

SIR: I have the honor herewith to enclose a copy of what I propose to send to Mr. de Rosenkrantz, in reply to his note of the 9th instant.

With the most perfect respect and consideration, sir, your very obedient servant,

GEORGE W. ERVING.

P. S.—I shall leave with Mr. Forbes the documents belonging to the claims here, and the claimants' letters; but I think it most proper upon the whole, to transmit to you the original notes of Mr. de Rosenkrantz, and they are, therefore, herewith enclosed.

G. W. E.

Mr. Erving to Mr. de Rosenkrantz.

COPENHAGEN, April 18, 1812.

His Excellency Mr. de Rosenkrantz, First Minister of State and Chief of the Department for Foreign Affairs, &c., &c.

The undersigned, Special Minister of the United States of America, has had the honor to receive the note which his Excellency Mr. de Rosenkrantz, First Minister of State and Chief of the Department for Foreign Affairs, addressed to him on the 9th instant, by order of his Sovereign, in reply to the reclamation made by the undersigned on the 4th November, 1811, against certain sentences of Danish tribunals, passed in preceding years on vessels and cargoes, the property of American citizens.

It appears that His Majesty has not thought proper to authorize the Minister of State to enter into discussion with the undersigned, upon any of the various subjects which that reclamation embraces; to contest or to acquiesce in any of the doctrines upon which it is based; to offer any kind of satisfaction for any of the various injuries which it complains of; or, to propose any

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correction of the abuses and malversations which it points out as the sources of those injuries.

It is, therefore, the duty of the undersigned, formally to declare, that the Government of the United States cannot rest satisfied with such a mode of treating rights which it holds sacred, and will never sacrifice; and with such a rejection of the just claims of its injured citizens, which it will never cease to assert and to protect.

The President will certainly receive with satisfaction the sentiments of particular friendship towards the United States, and of esteem for himself, which His Danish Majesty has been pleased to profess, sentiments which he will readily reciprocate, and which he was eager and sincere in advancing; but he will, at the same time, receive with surprise, as well as with peculiar concern, the declaration with which these professions are accompanied, refusing a reparation for the wrongs which he has complained of; wrongs which, unredressed, cannot but be considered as being but little in accord with such sentiments. These, his impressions, must be rendered still more forcible by the recollection that a suitable redress for similar wrongs has never been altogether withheld by any of the belligerent Powers, with which the United States have occasionally found themselves in collision; but, on the contrary, that each of the chief belligerents has heretofore furnished a signal example, wherein the firm and temperate voice of justice has prevailed over an erroneous policy; each has attended to and respected the remonstrances of the United States, satisfied with their demands, and amply compensated the losses which the temporary adoption of false principles, or the misconstruction, or malapplication of acknowledged principles had brought upon their citizens; thus recognising the sovereignty of just laws and the indefectibility of the neutral rights which spring from them: nor can the President be now reconciled to any infringement of these, to the cruising regulations of Denmark in those points which may offend them, or to the decisions of any tribunals, in as far as they may have the same tendency, by the only apology which His Majesty has authorized the Minister of State to offer for the wrongs complained of, viz: that these decisions are founded upon the same principles which direct the conduct of Denmark towards neutral European Powers, and that in cases wherein those Powers have been thereby affected, no revision or retrospect has taken place; for, without entering into the inquiry, whether there does, or does not, exist an European Power neutral with regard to Denmark, and with which she can possibly come into collision on such subjects, without pointing out the difference between the neutral position of the United States, and that of any European Power, or examining in any degree the conduct of Denmark towards the European Powers, neutral or otherwise; it is sufficient to observe, that the United States have not made common cause with any other neutral Power; they have not bound up their fate with, nor do they mean to submit their rights to the arbitration of, or to pare them down so as to suit the

convenience of any Power whatever—these rights are clear, pronounced, and unequivocal, they are found in the great code of public law; if other Powers have not the same interest in defending, if they find it convenient to relinquish, or, for any reasons whatever, cease to assert such rights, no obligation to abandon them is thereby imposed on America; but to the contrary, standing alone amidst the great struggle of nations, her obligation to protect that sacred deposit is strengthened, and she becomes doubly responsible to posterity for this great inheritance, since she is not deficient in the power and means of preserving it.

His Excellency the Minister of State seems to suppose that the principal object of the undersigned is to obtain the "revision" of the sentences of the tribunal specified in his note of November 4th. It is proper, therefore, to consider this part of the subject, though he must premise by observing, and he begs His Excellency to understand, that the object of that note, which embraced various subjects of complaint, was to obtain satisfaction and compensation, leaving the "mode" and the "means" to be adjusted by mutual accord, for he is entirely unwilling to rest the claims of the United States, or to make them in any wise dependent on an abstract discussion as to the course which may be taken to produce the satisfaction required.

The undersigned, in his note of November 4th, has shown, as he trusts, most clearly and indisputably that the rights of the United States, as a neutral nation, have been violated by the decisions therein referred to; if not, he has invited the Minister of State to discuss the principles on which his reclamation is founded. Can it be deemed to be a satisfactory answer to such a reclamation, that other nations have submitted to similar decisions? Can it be imagined that the term "definitive" as applied to such decisions is conclusive against the United States? Can it be expected that they will acquiesce in a decision as *just*, because it is termed "definitive?" The Constitution, the faculties, and the police of Admiralty tribunals, in this as in every other country, are formed by and depend on the will of the Sovereign, and is strictly responsible to foreign nations in all cases affecting their rights for a correct administration of justice, on the principles of public law which form the basis of those rights. No foreign nation submits its cause to the arbitrary or capricious decisions of such tribunals, or respects their decisions in any degree, further than as these may be found to conform to its own sense of its own rights. The tribunal is the mere instrument of the Sovereign, with which he operates, and it is his duty so to direct the use of it, that it may not do injury to the rights of others; the foreign nation therefore looks with reason to the tribunal only as indicative of the temper of the Sovereign by whom it is appointed, and under whose authority it acts, and not as the arbitrator of its own destiny. When a foreign Government complains of the conduct of such tribunals, it calls upon the good faith of the Sovereign to repair the wrong which he ought to have restrained.

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Shall it be competent for the Sovereign to refer the offended party for satisfaction to the very cause of complaint? What is this but to adopt the injustice complained of? Since when has it been agreed that the belligerents shall give law to neutral nations? Does the "ancient faith" which in peace, augmenting confidence, removed the probabilities of war, and in war mitigated its horrors; does it no longer subsist? Or, in a merely political calculation, does it not occur that the belligerent may hereafter become neutral? However these questions may be answered, it is certain that there is a self-conserving principle in truth and right which insures their vindication, so that a nation may be said to be deceiving itself when it refuses what is due to the just demands of others.

His Excellency the Minister of State has been instructed to observe, that if His Majesty could consent to a revision of the sentences of his tribunals, in favor of those whose property has been condemned he ought to extend such revision to the sentences, by which captured property has been acquitted.

The undersigned takes the liberty of remarking, that the reclamation which he has made is the reclamation of the American Government against certain sentences of condemnation, passed on American property by tribunals appointed by His Danish Majesty and acting under his authority. The American Government finds itself aggrieved by such decisions. Is His Majesty dissatisfied with the decisions of a contrary character, by which American property has been acquitted? Certainly not: yet only upon that ground could His Majesty desire a revision of the sentences of acquittal, for no question now exists between the captor and the captured; the question is between Government and Government; nor is it readily to be conceived, that tribunals whose decisions the Government of the United States has found such ample and solid reasons to complain of, can in other cases, have done injustice to His Majesty's subjects. It is because the tribunals have been partial to His Majesty's subjects; because they are not courts of arbitration, in which the United States has its equal representation, and hence have acted on principles the justice of which the United States does not acknowledge, that a revision of their sentences against the property of American citizens may be reasonably proposed by the American Government, and may be acceded to by His Majesty, without this plan contemplating any injury to his subjects. These are the grounds on which similar revisions have been demanded in other countries, and have been granted, and compensation obtained, without its ever having been proposed that sentences of acquittal, which have only tended to diminish the amount of the injuries complained of, should also be revised.

The undersigned cannot, therefore, but hope that His Danish Majesty, on a reconsideration of this important subject, will see fit to adopt some plan with respect to the matters complained of, which may satisfy the just expectations of the

United States. He has thought that it best comported with the friendly and conciliatory dispositions of his Government, not to propose any which should interfere with such arrangements, as having due regard to the object it might be most convenient to His Majesty to make, and therefore in his note of November 4th, stated, what he will here repeat, "that the mode, the means, and, to a certain extent, even the time may be subjected to considerations of mutual convenience and accord." He requests that the Minister of State will be pleased to lay this note before His Majesty; a correct translation of it in Danish is herewith enclosed.

He renews to His Excellency the Minister of State, assurances of his distinguished consideration.

GEORGE W. ERVING.

His Ex<sup>cy</sup> M. DE ROSENKRANTZ.

No. 21.

Mr Erving to Mr. Monroe, Secretary of State.

COPENHAGEN, April 20, 1812.

SIR: With my despatch No. 8 (of September 8th) I had the honor to submit to you copies of my correspondence with Mr. Desaugiers, then Chargé d'Affaires of France, which I had previously laid before the Minister of State here, and which was also transmitted by Mr. Desaugiers to his Government. In my notes to Mr. Desaugiers were particularized the various excesses of the French corsairs in these waters, which appeared to me contrary to the spirit and intention of that Government, as well as injurious to our commerce; it is with great satisfaction that I now transmit to you the new instructions which Mr. Desaugiers has been ordered to give to the captain of the corsairs.

With the most perfect respect, &c.

GEORGE W. ERVING.

His Exc<sup>y</sup> M. DE ROSENKRANTZ.

No. 22.

Extract of a letter from Mr. Erving to Mr. Monroe Secretary of State.

COPENHAGEN, May 9, 1812.

I have the honor herewith to transmit to you duplicate of my letter No. 20, (by Mr. Lewis,) dated April 18th. The note of the same date to which it refers, with the few alterations which will be found in this duplicate, was sent to Mr. de Rosenkrantz on the 21st, and was laid by him before the King on the 1st instant; in the meantime I had several conversations with that Minister upon the subject of it, in which I did not fail to urge whatever might contribute to a favorable answer on the part of His Majesty; finally, on the 8th instant (yesterday) he sent to me the note of which the enclosed is a copy. You will observe, sir, the new position which our claims assume under this communication, and the reasonable expectation which it affords of a settlement hereafter. I have endeavored to have this point placed in a more formal and explicit shape



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[TRANSLATION.]

Mr. de Rosenkrantz to Mr. Erving.

COPENHAGEN, May 8, 1812.

The undersigned, Minister of State, and of Foreign Affairs, has had to explain to Mr. Erving, special Minister of the United States of America, in his note of the 9th of last month, the motives which have influenced the King, his master, not to grant the revision of the sentences of the Supreme Tribunal of Admiralty definitively terminating the causes brought before this tribunal, arising from the captures made by Danish cruisers of vessels sailing under the flag of the United States, and that for this reason he could not persuade himself that the ulterior representations which the Special Minister had thought proper still to address him could produce any change in the determination of His Majesty. The Minister of Foreign Relations has, however, prevailed on the King, his master, to be pleased to examine the note which Mr. Erving addressed to him, under date of the 18th of last month, reiterating the claim to redress for the wrongs previously recited, and satisfaction for which he considers it his duty still to insist upon.

The undersigned hastens to have the honor to inform the Special Minister that it has been enjoined on him by his Sovereign to answer the abovementioned note of the Special Minister, by referring to the contents of his preceding note of the 9th, as to the friendly dispositions of His Majesty towards the Government of the United States; to add the expression of his extreme regret that he cannot agree to the opinion expressed by Mr. Erving, as being that of his Government, in regard to the conduct observed towards vessels under American flags, brought into the ports of his dominions by his armed vessels or by those provided with letters of marque.

The war in which the Danish nation is engaged with Great Britain, who employs every means to conceal from observation the enterprises of its merchants, in making use of foreign flags and merchants, have caused those measures, the object of which is to preclude English commerce from the advantage growing out of the disposition it has always found in the merchants of other nations to become the agents of prohibited trade. It is too well known to Mr. Erving, and it ought to be to his Government, that American merchants and mariners have frequently lent themselves to enterprises of this nature, for the Danish Government to consider it necessary to multiply the proofs which it has on the subject.

It is well known to the Danish Government that the United States do not pretend either to approve or defend the conduct of American citizens who, from the thirst of gain, are engaged in enterprises which expose them to loss, if the fraud is discovered. Proofs are not wanting to show that they have frequently succeeded in imposing both on the officers empowered to examine captured vessels and on the tribunals of prizes. The subterfuges to which they resort, to prevent the discovery of the enemy character of the expedition have necessarily induced those intrusted by

the King with the examination, as well as the tribunal, to redouble their activity, in order to fulfil the views of His Majesty; but it never has been conformable with these, to suffer that any injury should be sustained by the mariners and merchants of friendly nations who carry on a licit and unsuspecting commerce.

The persevering struggle of the Danish Government in favor of the principles upon which they repose the liberty of the commerce and navigation of neutral nations, forbids the supposition that it would wish to derogate from them; but it has a complete right to tear the mask from the commerce of its enemy, who recognises no law in regard to navigation as soon as neutral Powers are in question. The King will not renounce the exercise of this right. If His Majesty could be persuaded that in particular cases it should happen that appearances might have prevailed in the examination of some causes to the detriment of some American citizens, who might not have been able to demonstrate sufficiently that their enterprises of commerce were legitimate, he would assuredly be led to address just complaints, as he has on several particular occasions given proofs of his favorable dispositions towards the American vessels which circumstances have conducted to the ports of his Kingdom.

The King wishes therefore, to give, himself, proofs to the Government of the United States of the sentiments of justice with which he is animated.

The undersigned flatters himself that the President of the United States will be easily persuaded, that, during so hard a contest as that with which Denmark now sustains against the Government who so evidently disavows the rights of nations engaged in navigation, the moment is not favorable to bring anew under consideration the reclamations which the Government of the United States may find it convenient to make at that period, in relation to the objects of discussion.

The undersigned has the honor to renew to the Special Minister the assurance of his high consideration.

ROSENKRANTZ.

ALGIERS.

[Communicated to the House, November 17, 1812.]  
To the Senate and House of  
Representatives of the United States:

I transmit to Congress copies of a letter from the Consul General of the United States to Algiers, stating the circumstances preceding and attending his departure from that Regency.

JAMES MADISON.

NOVEMBER 17, 1812.

*Extract of a letter from Mr. Lear, Consul General at Algiers, to the Secretary of State. On board the American ship Allegany, at sea, July 29, 1812.*

"On the 17th instant, I had the honor to receive your respected favors of the 6th of Febru-

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ary and 29th of April, 1812, by Captain Ebenezer Eveleth, of the ship *Allegany*, which arrived at Algiers on that day, with the four new Mediterranean passports, two hundred tops, and the several packages containing messages, reports, newspapers, &c., together with the letter of Richard Forrest, Esq., covering the invoice and bill of lading of the ship *Allegany*, sent from the United States with a cargo of naval and military stores for the Regency of Algiers, in fulfilment of treaty stipulations.

"I must delay replying to the particular points in your letter of the 29th of April, until I shall have given an account of the most unexpected and extraordinary event which I believe has ever taken place, even in the extraordinary events of Algiers, in order that I may have it ready to transmit, in case I should meet any vessel bound to the United States.

"On the arrival of the *Allegany*, the Dey and the officers of the Regency expressed the most entire and complete satisfaction; and until the 20th instant, when they began to discharge the cargo, there was no appearance of any other sentiment. On that day a large quantity of spars and plank were taken on board a lighter, by the people of the marine, to be carried on shore, by order of the Minister of Marine, but they were not landed. At noon the Minister sent to request a note of the articles, and their quantity, which were on board the ship for the Regency, that he might lay it before the Dey in the evening, agreeably to his orders. I accordingly sent the note, taken from the invoice, but without affixing the prices. At six P. M., I received a message by my dragoman, from the Minister of Marine, informing me that when he laid my note of articles before the Dey, he became very outrageous on finding there was only fifty small barrels of gunpowder, and four cables on board; when the note sent to the United States in 1810, as furnished by the Minister of Marine, demanded five hundred quintals of gunpowder, and twenty-seven large cables, besides a very large quantity of cordage and other articles, as may be seen by said note, forwarded in my letter of August, 1810, to the honorable the Secretary of State; and told the Minister that he would not receive the cargo, but would send the ship away from Algiers, and that I must depart in her, as he would not have a Consul in his Regency who did not cause everything to be brought exactly as he (the Dey) ordered.

"Early on the morning of the 21st, I waited on the Minister of Marine to inquire into this procedure, when he confirmed all that had been told me by the dragoman, and added many other expressions of anger and disgust of the Dey.

"I reasoned with him on the subject, stating that it had never been usual to send the whole of such large orders at one time; that we had been very punctual in our payments, and that the cargo of this vessel would probably pay all that we owed; that cargoes had always come in this manner, assorted, with a part of each article, and that I had never before found any difficulty;

that powder and cables were articles of which we did not make enough for our own use in the United States, and that it was almost impracticable, at this time, to bring them from other countries, as was well known to himself and all the world; that, in the present distracted state of nations, it was possible the United States might be forced into a war, and that it behooved our Government not to be destitute of so essential an article of defence as gunpowder; but that on a future occasion we might be able to send more; with many other remarks, which he allowed to be reasonable, but said that the Dey was determined; and that when he had once fixed a resolution he never departed from it. And added, that the Dey insisted upon having everything brought which he ordered, without regarding whether it amounted to more than the sum stipulated in the treaty or not; and that I must depart on Thursday the 23d instant, on board the *Allegany*, with all the Americans now in Algiers.

"I wished to see the Dey, and for that purpose desired an audience, which was denied me.

"I then requested that a few more days might be allowed for my remaining, that I might prepare myself, as it was impossible to make any arrangement of my affairs in so short a time, hoping in the mean time, to make some accommodation of this business. The answer was that the Dey would not allow an hour.

"I wrote a circular to the Christian Consuls in Algiers, informing them of my ordered departure.

"The spars and plank which were taken out of the vessel yesterday, were returned on board this morning. In the morning of the 22d, I sent my dragoman to the palace to say that I wished to make a settlement of the cargo of the brig *Paul Hamilton*, which had been delayed by a request from the palace until the *Allegany* should arrive, when a settlement could be made for both vessels at the same time.

"The request was granted, and the dragoman informed me that the Dey wished me to bring our treaty with me, that we might see the time when it commenced, the terms, &c., in order to make a final settlement of our accounts. This I did, and while I was settling the account of the *Paul Hamilton's* cargo with the Prime Minister and Secretaries, in the usual manner, the Dey's dragoman came down, and said, the Dey wished to see the treaty which I had brought. I gave it to him without hesitation, supposing that the Dey might wish to see something in it, or that he might compare it with that which was in the palace. But when I demanded the treaty again the Dey refused to deliver it, saying, by his dragoman, that when a Consul was sent away, he, the Dey, should always keep his treaty, and that such had ever been the custom at Algiers.

"After settling the account of the cargo of the *Paul Hamilton*, which amounted to \$12,109, and producing a tiscary or acknowledgment of a balance due to the United States, which had been given in February, 1810, at the settlement of the cargoes of the ship *Resource* and brig *Blanchy*, for \$26,065; the Minister and Secretaries said

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there was still \$27,000 due to the present time. This I denied, as I had the receipts of the Regency for the payment of annuities for fourteen and a half years, exclusive of the amount of the cargo of the Paul Hamilton and the tiscary, for \$26,065, and as our treaty was concluded on the 5th of September, 1795, it would be only seventeen years in the whole, from which the fourteen and a half years were to be deducted, leaving two and a half years ending the 5th of September next, and amounting to \$54,000, from which deducting the cargo of the Paul Hamilton, and the tiscary before mentioned, would leave but \$15,826, and which I had no doubt but the cargo of the ship Alleghany would fully pay, if it should be received.

"The Minister then observed, that they counted the year by the Mahometan calendar consisting of three hundred and fifty-four days, so that the difference in seventeen years would make it one-half year more than we counted. I told him that I had always reckoned the years in the Christian manner of three hundred and sixty-five days; and that I presumed the same was done by all other Consuls having accounts of a similar nature with the Regency. He said it was never so done, or allowed by the Regency, and immediately sent up a note to the Dey, of the sum due by his account, viz: \$27,000.

"After a short time the Dey sent down word by his dragoman, that the balance must be paid *immediately in cash*, and that the vessel, with myself, &c., must depart to-morrow as he had ordered. I answered that it was impossible for me to comply with the Dey's order, even if I acknowledged the balance to be just, and had every disposition to pay it, as I had not the means of obtaining the money, especially as the cargo of the ship now in port was sent by my Government for the express purpose of paying what might be due to the Regency, and was the strongest possible evidence of our punctuality in fulfilling our engagements.

"The Prime Minister then went up to the Dey, with the dragoman, and soon returned, saying that the Dey persisted in his first order, that the money should be paid *immediately*; or that I should be sent to the marine in chains, the vessel and cargo confiscated, and all the citizens of the United States now in Algiers be detained in slavery, and *war* instantly declared against the United States.

"I told the Minister that the matter was now brought to a decision, and that I must go to the marine in chains, for it was not *possible* for me to obtain the money; and had no more to say on the subject, but would warn them of the evil which they were bringing on themselves, by such unjust and outrageous conduct.

"The Minister went to the Dey a second time, when I demanded to accompany him, but was refused, and soon returned with what he said was the fixed and unalterable resolution of the Dey, viz: that he would allow me till Saturday morning, the 25th instant, to pay the money and depart with the vessel, and all other Americans in Algiers; but, if this was not done, he should con-

fiscate the vessel, detain in slavery all the Americans in Algiers, and declare war against the United States, as he had before determined. The Minister also added, that the Dey had been informed that the ship had brought a large quantity of coffee, for sale, and some other articles not intended for him, (meaning, I suppose, the gun barrels, &c., for the Emperor of Morocco; but whence he could have got information of the latter I know not, for I had never mentioned a syllable of it to any one in Algiers. I have since learned that it was discovered by some means or other, when the planks and spars were taken out of the vessel on Monday;) and that he was, if possible, more highly incensed at this, than on any other account; saying that he considered it an insult offered, by having merchandise embarked on board a vessel which was said to have been sent for the sole purpose of bringing the annuity.

"As I was determined that nothing should be wanting on my part to settle this unpleasant, and to me unaccountable business, I proposed to the Prime Minister that the articles now sent by the Alleghany should be received and passed to our credit, in the usual manner of settling the accounts of cargoes, when they had the power of fixing their own prices, and, that whatever balance might appear due, after such settlement, should be paid in cash, if the Dey desired it; and that he might send a note of such articles as he expected for the next annuity, which I would forward to my Government, with such observations on the propriety or necessity of sending the whole of them, as the Dey should express. By this means, if the proposition should be accepted, time would be given to make preparations for future events, or, at any rate, our commerce in this sea might have been secured by giving timely notice, and putting our vessels on their guard. But the Dey refused to listen to it, and repeated his first orders.

"On leaving the palace, I reflected upon the very critical and alarming situation of our affairs with the Regency, which was not only brought on in the most unexpected manner, but without any reasonable or justifiable cause of complaint on the part of the Dey. It appeared to me that he had determined to take a measure which I had for some time past apprehended, and which I had more than once the honor of intimating to the honorable the Secretary of State, particularly in my letter of the 29th May last, viz: That after having concluded a truce with Portugal, and seeing Sicily under the protection of the British, he must make war upon some other nation, with or without a cause, in order to employ his cruisers; and that the extended and unprotected commerce of the United States offered greater prospects of advantage from plunder and capture than he could expect from any other nation. The ultimate consequence of such conduct he would never calculate; neither would he be restrained by any sense of shame, or of the flagrant injustice of the act.

"In this state of embarrassment, and with these

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reflections, I was still determined to try all possible means to accommodate the present difficulties, before the ultimate period fixed by the Dey should arrive; but if that could not be effected, I should prepare, if possible, to pay the balance demanded in money, to prevent the loss of the ship and cargo, the detention of all Americans in Algiers, and the immediate capture of others.

"In order to raise the money I proposed to sell the cargo of the ship, as the Dey would not receive it, and pay him the proceeds in cash towards the balance, but he absolutely forbid the sale of any article on board her. Thus situated, I had no other means left but to endeavor to obtain the money on my bills, and while I was using every means in my power, and through every channel that could be devised, to have matters accommodated before they came to the last extremity, I was not inattentive to the necessity I might be under of procuring the money in the last moment.

"As the discussions on our business had taken place either at the marine or in the palace, in presence of all those usually attending there, it was no secret; and I had the satisfaction of hearing a general sentiment of disapprobation expressed on account of the Dey's conduct, more strongly than I could have supposed it would have been done, when it was known in what awe and dread every one beheld the present Dey, whose severity is almost without example.

"The only quarter from which money could be obtained at any rate was the house of Bacri, and upon application to him to know if I could depend upon him in the last extremity, he raised many difficulties on account of the limited time, of the many very heavy payments which they had been obliged to make lately for the cargoes of the Greek prizes purchased by them, which had entirely absorbed their cash, &c. He also made some objection to the security of such bills on account of my being obliged to leave the Regency; to that I answered, that I should not desire any one to become my security, as the same objection would naturally occur to them, and that if I should give bills, I must candidly say that, if the vessel should not afterwards be permitted to depart with her cargo, (as I had some apprehensions, from the shameful conduct of the Dey, might be the case, in violation of his word,) the bills would not be paid, as the proceeds of the cargo, at the place to which she might go, must be depended upon towards discharging such bills. He said he would consider the subject, and give me an answer on Friday as to the practicability of getting the money, if it must be had, and the terms which would be expected for it.

"On Friday I made the last effort to effect an accommodation, and flattered myself with some little prospect of success, as the Minister of the Marine, and some others of the principal officers of the Regency, had expressed their regret at what had happened, and had promised to do everything in their power to induce the Dey to alter his determination, if the Dey should introduce the subject before them, on this day, when they

all met him at the palace to go with him to the mosque, it being the Mahomedan sabbath; but they candidly acknowledged that if he did not bring the matter forward, no one would dare to introduce it, as they knew the obstinacy of his temper, and dreaded the effects of his resentment.

"I had communicated to the Minister of the Marine the proposition which I made in the palace on Wednesday, for the Dey to take this cargo on account, and to pay the balance, if any, in cash, &c., which he did not hesitate to declare he thought highly reasonable, and such as should be satisfactory; but, at the same time, remarked on the inflexible obstinacy of the Dey, when he had once taken his resolution.

"At one o'clock my dragoman brought me a message from the Dey, which he said was his last, and irrevocably fixed, viz: that I should tomorrow morning pay into the treasury twenty-seven thousand Spanish dollars, which he claimed as the balance of annuities from the United States, and then depart from the Regency with my family, and all other citizens of the United States in Algiers, in the ship which had brought the stores, in fulfilment of treaty stipulations, and which he had refused to receive; or that the ship and cargo, with all other Americans now in Algiers, should be detained, the former confiscated, the latter kept in slavery, and that war should be instantly declared against the United States.

"This message determined the business and closed every door of hope for an accommodation. It was confirmed by the Minister of Marine, who said that the subject having been introduced by the Dey in their presence, he and the other Ministers had urged everything they dared, to induce the Dey to alter his determination, and to accept my proposition, but in vain. He was inflexible, and the alternative must be taken immediately.

"I had now my ultimate choice to make between the payment of the money, if it could be obtained, and the certain loss of the vessel and cargo, worth much more than the sum claimed by the Dey, and the immediate slavery of more than twenty American citizens (including myself and family) now in Algiers, with the highest probability of many American vessels and their crews being captured before it would be possible to give notice of what had happened, to enable them to consult their safety by remaining in port, as the port of Algiers had been shut since the sailing of their cruisers on the 13th instant, and of course no opportunity had offered to communicate an account of these transactions to any of our Consuls in the Mediterranean.

"I therefore made my election to pay the money, if it could be obtained, especially as the departure of the Allegany would afford an opportunity of giving the most speedy information to every part of this sea, and guard American vessels against falling into the hands of the Algerine cruisers now out; as I can now have but little doubt of the Dey's having given orders to his cruisers, on their sailing, to detain and send in such American vessels as they may find. For it must clearly be seen that he has no reasonable or

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justifiable ground for his present demand and conduct, and I am in a great measure confirmed in my apprehensions entertained and expressed in my last letters to the honorable the Secretary of State, that after the truce with Portugal and the protection of the Sicilians by the English, he would make war upon some nation to employ his cruisers; and that none offered a better prospect than the vessels of the United States.

"The present posture of affairs between the United States and Great Britain, just on the point of open hostilities, would afford another guard and security against our sending a force into this sea to protect our commerce now here, or revenge the insult and injury inflicted on us; especially, too, as under present circumstances, he must suppose, that it would be gratifying to the British, with whom, there is every reason to believe, he has a treaty offensive and defensive.

"I sent for Mr. Bacri, and informed him of my determination to pay the money and depart from Algiers, and should depend upon him for it. But that if, after paying the money, the vessel and Americans should not be allowed to depart from Algiers (which I had reason to apprehend from the Dey's outrageous and extraordinary conduct might happen notwithstanding his declaration) the bills which I might draw would not be paid at Gibraltar; for, that I must depend upon the sale of the cargo of this vessel to meet the bills as far as it would go; and that I gave him this information, that he might know the ground on which he stood. He replied that he should have full faith in the bills on that condition, and then observed that the sacrifice which must be made to obtain the money at the moment, could not be less than twenty-five per cent. After some further discussion of the subject, and knowing the impossibility of obtaining the money from any other quarter, (about which I had made inquiry for two days past,) I agreed to give him the advance, which brought the amount to \$33,750; and in the evening gave him a bill, at thirty days sight, on John Gavino, Esq., Consul of the United States at Gibraltar, in favor of Moise Levy Valensen, of Gibraltar, value received of Jacob Cain Bacri, of Algiers, on account of the United States of America, to pay a balance claimed by the Day of Algiers, for annuities from the United States, the Dey having refused to receive the naval and military stores sent from the United States, agreeably to treaty stipulation, to pay such balance as might be due. I also stipulated with Mr. Bacri, that he should cause the money to be paid into the Treasury to-morrow morning, so as not to give any ground for detaining the vessel, or raising any new difficulties on that account, which he promised to do.

"I gave to John Norderling, Esq., his Swedish Majesty's Agent General at Algiers, a letter accepting his friendly offer to take care of my property left at Algiers, and also requesting his kindness to be extended to any American citizens who might arrive in Algiers after my departure, or be unhappily brought in by the cruisers of the Regency.

"The following is an extract from my letter to Mr. Norderling.

"As my departure from Algiers is compulsive, I leave no person directly charged with the affairs of the United States of America in this Regency. But should any of our citizens arrive here, or be unhappily brought in, your kindness to them will be gratefully acknowledged, and the necessary and reasonable expenses for the support of such as are destitute will be paid by the Government of the United States."

"Through the day of Friday, and in the evening, my acquaintance of all descriptions called upon me, and the unfeigned sorrow expressed by all of them of every denomination, sufficiently evinced the regard they had for us. And the undisguised disapprobation and disgust expressed by all classes at the Dey's conduct, must, I think, end in some disastrous event for him.

"Very early on Saturday morning the dragoman came to my house, and informed me that Jacob Bacri had paid the money to the Regency, and soon after the Minister of the Marine sent for me to go to the Marine, where he informed me it was the Dey's order that myself and all the other Americans should embark immediately, and depart from Algiers. He expressed his regret at what had happened, and declared that it was against his strong advice and wishes, and hoped that everything might yet be accommodated after the Dey's phantasy should have passed, &c. I intimated to him my suspicions and apprehensions that orders had been given to the cruisers, which sailed on the 13th instant, to capture American vessels. He assured me that if such orders had been given by the Dey to the commander of the squadron, he was ignorant of it, and that he hoped it was not the case. How far his reply is to be relied on I am not able to say.

"I requested the Minister to give me a certificate of the ship *Allegany* having been sent away by order of the Dey, that in case she should be met by any of the cruisers now out, they might not molest or stop her. This he declined, saying that their cruisers were all at the east of Algiers, and that if any one should molest or detain the vessel, the Dey would punish the commander most severely, &c. This did not satisfy me; but I could not prevail upon him to give the passport.

"When I parted from the Minister I was about to return to my own house to accompany my wife on board the vessel; but he said I must not return there again, but must go on board, as the vessel was getting under way, and that the dragoman would go up to conduct my family down and on board, which was accordingly done, and the vessel got out of the port about 7 o'clock, A. M.

"The persons embarked on board the *Allegany*, besides the captain and crew, (consisting of seven persons,) are myself, my wife, and my son, (who arrived from the United States via Gibraltar, on the 15th instant,) Mr. Jonathan S. Smith, of Philadelphia, who has been in Algiers these two years past, with some coffee for sale, which he has thought proper to abandon, and

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says he shall seek for indemnification from the United States. I advised him to sell it, as it was not possible for the ship to take it on board, as she was entirely filled with the cargo which she brought out, but he did not think proper to comply with my advice; Mr. John Vallet, a naturalized citizen of the United States, whom I have mentioned in my letter of the 29th May, a copy of which I have now the honor to enclose, as well as that of the 30th of April, and a Mr. Pinto, also a naturalized citizen of the United States, certificate from South Carolina.

"On the evening of our leaving Algiers we spoke a British letter of marque, bound to Malta, and as the weather did not admit of sending a letter on board, I desired the captain to inform the American Consul at that place that I had been ordered from Algiers, and, as there was no doubt but that the Algerine cruisers would capture any American vessels they might meet, desired that he would give notice thereof to all American vessels in Malta, and extend the information in every direction possible.

"Yesterday we were boarded by His Britannic Majesty's brig Goshawk, which was going with a convoy to Alicant and Majorca, to the commander of which brig I gave letters to our Consuls in those places, a copy of which I have the honor to enclose, and requested the said commander to give the notice of my being ordered from Algiers, &c., to any American vessels he might meet at sea, and make the same known wherever he might go. I shall forward my circular to any places to which we may meet vessels going, until I reach Gibraltar, whence I shall disperse my circulars by every opportunity which may offer, to all ports of this sea, as well as to the ports in the Atlantic.

"The officers of the Goshawk who boarded us, gave information that the British Orders in Council, laying restraints on neutral commerce, had been revoked, and that the British cruisers had orders not to molest American vessels, as an evidence of which he did not even ask for a sight of the Allegany's papers.

"I took passports for the ship from the French and Spanish Consuls before I left Algiers. The English Consul did not furnish any, although I applied to him for that purpose. I did not ask them from the Swede or the Dane, as they have no vessels in this sea.

"I have now, sir, given you a faithful and detailed account of this extraordinary and unexpected transaction. While I feel conscious that no exertion was wanting on my part, and no means in my power left unattempted to make an accommodation, when the difficulties were first brought forward, and during the whole course of this unexampled proceeding; and that my ultimate decision was made on the ground of necessity, to prevent a greater evil to my country; I trust that the President and our Government will approve my conduct. The law passed on the 1st of May, 1810, restricting the Consuls in Barbary to the sum of three thousand dollars annually, to be employed in presents, &c., without the spe-

cial permission of the President first obtained, prevented my making those attempts in a pecuniary way, for opening a door to accommodation, which I should otherwise have done; but, upon a review of the whole of the circumstances attending this business, I have now my doubts whether any sum which the United States might have thought proper to bestow, would have answered the purpose. I thought it my duty, however, to make some attempts in that way, upon the scale to which I was limited; but it had not the desired effect.

"The character of the present Dey, Hadge Alli Bashaw, is that of a severe, obstinate, and cruel man. He is said to be inflexible in his resolutions, and will bear no contradiction or reasoning. He has kept the soldiers in more subjection during his reign than they have been accustomed to for many reigns before, and no one dares approach him, but those whose duty calls them into his presence, or who are sent for by him. He has not granted an audience to any Consul for nearly a year past, except to a new English Consul who arrived in April last: and would not see the old Consul before his departure. The tales told of his personal conduct in the palace, bespeak him a man deprived, at times, of his reason. His conduct with respect to our affairs is almost an evidence of his insanity; and I am very much mistaken if it does not hasten his exit from this world; but while he reigns he is most absolute. And I have very little hopes of his refraining from making war upon the United States. There is every reason to apprehend, from what has taken place, as before detailed, that the cruisers had orders to capture American vessels, before their departure from Algiers, on the 13th instant. In which case some vessels will undoubtedly fall into their hands before the notice I have given, or may give, can reach the ports where they may be, and prevent their sailing. It therefore behoves the Government to prepare for such an event, and to determine in what manner they will meet it. Should our differences with Great Britain be so accommodated as to admit of sending a naval force into this sea, I am sure there is only one course which the Government will pursue, and what has now taken place may be a happy and fortunate event for the United States, by relieving them from a disgraceful tribute, and an imperious and piratical depredation on their commerce. If our small naval force can operate freely in this sea, Algiers will be humbled to the dust.

"Spain would undoubtedly be ready and willing, as far as she might be able, to co-operate with any nation against Algiers; for the enormous demands made upon the former by the latter not having been complied with, the Algerines have lately taken vessels and property from the Spaniards to the amount of more than one hundred thousand dollars, and have upwards of fifty of the subjects of that nation in slavery. They still permit, or rather compel the Consul to remain at Algiers, and have not declared war against Spain, whose ally seems to view these depredations with indifference. The French may be

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nearly in a state of open hostility with them; and the Algerines know, that in the event of a peace between Great Britain and France, they must submit to the will of the latter Power. Sweden and Denmark are in arrears for four or five annuities, and nothing but a knowledge that these Powers have no commerce in this sea, on which they can depredate, prevents their making war upon them. In the mean time, the Consuls of these nations pay annually a considerable sum in money for their forbearance, while the account of annuities is accumulating. All the Sicilians have been released, through the interference of the English, from Tunis and Tripoli; and at my departure from Algiers, Lord William Bentinck was daily at that place, to treat for the Sicilians in slavery there. The Portuguese have redeemed all their subjects in slavery at Algiers, and extended their truce with the Regency for one year.

"I shall proceed in the Allegany to Gibraltar, where I shall dispose of her cargo which has been refused by the Dey of Algiers, to meet, as far as it will go, the bill beforementioned, and for the remainder shall draw upon the honorable the Secretary of State. At the same time, I shall send to Mr. Simpson, our Consul at Tangier, the gun barrels intended for the Emperor of Morocco, as well as a copy of your letter respecting the change of passports, with a proportion of the tops, and one of the new passports. The same will be done to Tunis and Tripoli, from which places I have heard nothing since I had last the honor of writing to you. I shall also from thence dispense information of what happened at Algiers, to all ports of this sea, as beforementioned, and shall add to this letter (if an opportunity should not offer of forwarding it before my arrival) such occurrences or information as I may meet there.

"On the 13th instant, the whole naval force of Algiers sailed on a cruise to the eastward, supposed to be destined against Tunis, or to make a descent on some part of Sardinia, for the purpose of getting slaves. It consisted of the following vessels:

1 frigate of 50 guns and	500 men.
1 do. 46	460
2 do. 44	450 men each, 900
1 do. (new) 38	400
2 corvettes, 24 guns each,	500
1 do. 22	230
2 brigs, 22 guns each,	450
1 xebec, 20	200
1 schooner, 4	40
1 row galley,	50
6 gunboats, sloop rigged, carrying one 24 pounder and one 11 inch mortar each.	

"The heaviest cannon in their frigates are eighteen pounders, but these do not extend through the whole battery, having some twelve pounders among them; the other guns are nine and six pounders. The corvettes and brigs carry twelve, nine, and six pounders; none of them have carronades.

"The large frigate is about six years old, and the best of the squadron. She is about the size

of our 36 gun frigates. Three of the others are very old ships, hardly seaworthy, about the size of our 32 gun frigates. That of 38 guns is a new ship, launched at Algiers about two months since and is about 500 tons burden. The two corvettes of 24 guns are Greek prizes, converted into cruisers, about 400 tons burden each. The corvette of the 22 guns is an old vessel of about 350 tons. The two brigs are about 250, and the xebec 200 tons. Four of the frigates, one corvette, and the two brigs, are coppered.

"The Algerines have not another vessel of war, beside those mentioned, excepting three gunboats, of the size of those sent out, which are unfit for service. All their small open gunboats, for the defence of the bay, are either broken up or entirely unfit for service.

"The squadron beforementioned is commanded by their famous captain Rais Hammida, who bears the title of Admiral. He is a bold, active, enterprising commander, but entirely unacquainted with any regular mode of fighting; he has not the advantage of being a Turk, or even an Algerine by birth, and his advancement, which has been owing entirely to his activity, enterprise, and singular good fortune, has excited the jealousy and hatred of the other commanders, who are far inferior to him in point of talents; but he is much beloved by the sailors (if such they may be called who go out in their cruisers.) He is an Arab of the mountains, of one of the tribe of Carbiles; he came to Algiers when a boy, to seek a livelihood, as is the custom of those people, and going out in one of the cruisers, became attached to that mode of life, and has risen to his present rank. He is about 40 years old.

"The crews of their cruisers consist principally of the lowest and most miserable order of people in Algiers, known by the name of Biscaries, and Carbiles, from the tribes to which they belong. They are either taken from the streets at the moment when a cruiser is about to sail, or, if a previous cruise has been fortunate, they go on board voluntarily in great numbers, hoping to obtain plunder or prize money. As the last cruise of their corsairs was esteemed fortunate by the capture of a number of Greek vessels loaded with wheat, and each man shared about fifty dollars, the vessels have been crowded with volunteers on the present cruise. Besides these, there are a few who may be called good seamen for Algerines; and about ten or twelve Turkish soldiers to every one hundred men on board the vessel.

"They know nothing of regular combat at sea, and, if kept from boarding distance, they could not withstand one-half their own force on board another vessel, which should be tolerably well managed in the usual mode of sea-fighting. It is on boarding, that they depend entirely to overcome an equal or any force that will contend with them. These attempts they sometimes make with a desperation bordering on madness; but, if foiled in that, they have no other resource.

"After this account of the Algerine cruisers and their crews, which is faithful and correct, I am sure that our brave officers and seamen would

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rejoice to meet them with one-half their force, if circumstances should make a recurrence to arms necessary on our part, and our ships could come freely into this sea.

Enclosed is the account of the settlement of the cargo of the brig Paul Hamilton, made at the Palace on the 22d instant; and, although the prices allowed for the cordage and cables are at a great loss to the United States, yet, those given for the plank and turpentine, &c., make the settlement, upon the whole, as good as usual. And, had the cargo of the ship Allegany been received at the same rate, it would have paid the balance up to September next, which completes the seventeenth year of our treaty, according to our computation of time. The account of annuities between the United States and Algiers, as per treaty, stands simply thus:

*The U. States to the Dey and Regency of Algiers, Da.*  
To 17 annuities, ending September 5, 1812,  
at \$21,600 per year - - - - \$367,200

*Supra.*

Cr.

By 14½ annuities paid, as per receipts, at  
\$31,600 per year - - - - \$313,200

By a tiscary given at the last settlement for  
a balance in favor of the United States,  
14,480 old sequins - - - - 26,064

By the amount of stores brought by the brig  
Paul Hamilton, as per settlement, July  
22, 1812 - - - - 12,099

Total - - - - - \$351,363

Balance due to the Regency of Algiers on  
the 5th September, 1812 - - - - 15,837

Aggregate - - - - - \$367,200

"The Regency of Algiers, counting the time by the Mahometan computation of 354 days to the year, make 17½ years, which is an addition of half a year, or \$10,800 to the above balance; which makes their balance \$26,637 to the 5th September, 1812, for which the Dey demands \$27,000, in round numbers."

### GREAT BRITAIN.

[Communicated to Congress, December 22, 1812.]

*To the Senate and House of  
Representatives of the United States:*

I transmit to the House of Representatives a report of the Secretary of State, complying with the resolution of the 9th instant.

JAMES MADISON.

DECEMBER 21, 1812.

DEPARTMENT OF STATE, Dec. 19, 1812.

The Secretary of State, to whom was referred the resolution of the House of Representatives of the 9th instant, requesting information touching the conduct of British officers towards persons taken in American armed ships, has the honor to lay before the President the accompany-

ing papers, marked A, B, C, from which it appears that certain persons, some of whom are said to be native, and others naturalized citizens of the United States, being parts of the crews of the United States' armed vessels the Nautilus and the Wasp, and the private armed vessel the Sarah Ann, have been seized, under the pretext of their being British subjects, by British officers, for the avowed purpose, as is understood, of having them brought to trial for their lives; and that others, being part of the crew of the Nautilus, have been taken into the British service.

The Secretary of State begs leave, also, to lay before the President the papers marked D and E. From these it will be seen that whilst the British naval officers arrest as criminals such persons taken on board American armed vessels as they may consider British subjects, they claim a right to retain on board British ships of war American citizens who may have married in England, or been impressed from on board British merchant vessels; and that they consider an impressed American, when he is discharged from one of their ships, as a prisoner of war.

All which is respectfully submitted.

JAMES MONROE.

A, No. 1.

Extract of a letter from Lieutenant F. H. Babbitt to Master Commandant William H. Crane, of the United States' Navy, (late of the United States' brig Nautilus,) dated

BOSTON, Mass., Sept. 13, 1813.

Enclosed I send you a description of the proportion of our little crew who have been so debased and traitorous as to enter the service of our enemy: also, a list of those gallant fellows, whose glory it would have been to have lost their lives in the service of their country, and whose misfortune it has been to cross the Atlantic on suspicion of their being British subjects; four of them native born Americans, and two naturalized citizens. On their parting with me, and removal from the Africa of sixty-four guns to the Thetis frigate, (the latter with a convoy from England, then in 43° 30' north, and 46° 30' west,) their last request and desire was that I would particularly acquaint you with their situation, with their determination never to prove traitors to that country whose flag they were proud to serve under, and whose welfare and prosperity they equally hoped and anticipated to realize.

F. H. BABBITT.

A list of men said to have entered on board His Britannic Majesty's frigate Shannon, Commodore Broke, with their description, as far as known.

JESSE BATES, seaman, and about five feet nine inches high, dark hair and complexion, dark snapping eyes, has an impediment in his speech, and at times affects lunacy; has a wife and family in Boston, Massachusetts.

SAMUEL LANG, marine, born in Kentucky, five



*Relations with Great Britain.*

feet eight inches high, or thereabouts, and is supposed to be with Captain Hall, of the United States' marines, New York.

JOHN YOUNG, marine, five feet five inches high, large mouth, enlisted with Captain Hall, navy yard, New York; when addressed, or is addressing an officer, casts down his eyes. For his particular description, as well as that of JOHN ROSE, marine, about five feet eight inches high, brown hair, full face, thick set, and a scowl in his countenance, refer to Captain John Hall.

JOHN O'NEAL, seaman, about twenty-five years of age, five feet five inches high, dark hair, sharp face, dark eyes, thick set, and was shipped at Norfolk, Virginia, previous to your taking command of the Nautilus.

WILLIAM JONES, ordinary seaman, about five feet eight inches high, light hair, twenty-four years of age, full face, thick set, downcast look, and a very alert man; entered at New York, April last.

F. H. BABBITT.

A, No. 2.

Sir John Borlase Warren to Mr. Monroe,  
HALIFAX, 30th Sept., 1812.

SIR: Having received information that a most unauthorized act has been committed by Commodore Rodgers, in forcibly seizing twelve British seamen, prisoners of war, late belonging to the Guerriere, and taking them out of the English cartel brig Endeavor, on her passage down the harbor of Boston, after they had been regularly embarked on board of her for an exchange, agreeably to the arrangements settled between the two countries, and that the said British seamen, so seized, are now detained on board the United States' frigate President as hostages; I feel myself called upon to request, sir, your most serious attention to a measure so fraught with mischief and inconvenience, destructive of the good faith of a flag of truce and the sacred protection of a cartel. I should be extremely sorry that the imprudent act of any officer should involve consequences so particularly severe as the present instance must naturally produce, if repeated; and although it is very much my wish, during the continuance of the difference existing between the two countries, to adopt every measure that might render the effect of war less rigorous, yet, in another point of view, the conviction of the duty I owe my country would, in the event of such grievances as I have already stated being continued, not admit of any hesitation in retaliatory decisions; but as I am strongly persuaded of the high liberality of your sentiments, and that the act complained of has originated entirely with the officer who committed it, and that it will be as censurable in your consideration as it deserves, I rely upon your taking such steps as will prevent a recurrence of conduct so extremely reprehensible in every shape. I have the honor to be, &c.

JOHN BORLASE WARREN,  
*Admiral of the Blue, &c.*

His Exc'y JAMES MONROE, Esq.

Mr. Monroe to Sir John Borlase Warren.

DEPARTMENT OF STATE,  
October 28, 1812.

SIR: I have had the honor to receive your letter of the 30th September, complaining that Commodore Rodgers, commanding a squadron of the United States' Navy at the port of Boston, had taken twelve British seamen, lately belonging to His Britannic Majesty's ship the Guerriere, from a cartel in the harbor of Boston, and that he detained them on board the President, a frigate of the United States, as hostages.

I am instructed to inform you that inquiry shall be made into the circumstances attending, and the causes which produced the act of which you complain, and that such measures will be taken, on a knowledge of them, as may comport with the rights of both nations, and may be proper in the case to which they relate.

I beg you, sir, to be assured that it is the sincere desire of the President to see (and to promote, so far as depends on the United States,) that the war which exists between our countries be conducted with the most utmost regard to humanity. I have the honor, &c.

JAMES MONROE.

SIR JOHN BORLASE WARREN,  
*Admiral of the Blue, &c.*

B.

WASHINGTON, December 17, 1812.

SIR: I have the honor to annex a list of twelve of the crew of the United States' sloop of war Wasp, detained by Captain John Beresford, of the British ship Poictiers, under the pretence of their being British subjects.

I have the honor to be, &c.

GEORGE S. WISE, *Purser.*

HON. PAUL HAMILTON, *Sec'y Navy.*

[List referred to in the preceding note, marked B.]

WASHINGTON CITY, Dec. 17, 1812.

JOHN MCCLOUD, boatswain, has been in the service since 1804. Married in Norfolk in 1804 or 1805, and has a wife and four children there.

JOHN STEPHENS, boatswain's mate, has been in the service for six years.

GEORGE M. D. READ, quartermaster, has a protection, and has sailed out of New York and Philadelphia for several years.

William Mitchell, James Gothright, John Wright, Thomas Phillips, Peter Barron, seamen; John Connor, John Rose, George Brooks, ordinary seamen; and Dennis Dougherty, marine. The greater number, if not all, had protections at the time of entering and being taken. Two others were detained, John Wade and Thomas Hutchins, but were given up; the former on Captain Jones's assuring Captain Beresford he knew him to be a native citizen; the latter on a like assurance from D. Rogers. William Mitchell was in the service during 1805 and 1806, in the Mediterranean.

GEORGE S. WISE, *Purser.*

*Relations with Great Britain.*

## C.

Extract of a letter from Major General Pinckney to the Secretary of War, dated

HEADQUARTERS, CHARLESTON,  
November 4, 1812.

Information having been given upon oath to Lieutenant Grandison, who at present commands in the Naval Department here, that six American seamen, who had been taken prisoners on board of our privateers, had been sent to Jamaica to be tried as British subjects, for treason, he called upon the marshal to retain double that number of British seamen as hostages. The marshal, in consequence of instructions from the Department of State, asked my advice on the subject, and I have given my opinion that they ought to be detained until the pleasure of the President shall be known. The testimony of Captain Moon is herewith. I hope, sir, you will have the goodness to have this business put in the proper train to have the President's pleasure on this subject communicated to the marshal.

Copy of a letter from Captain Moon, of the privateer Sarah Ann.

NASSAU, NEW PROVIDENCE,  
October 14, 1812.

Six of my crew, claimed as British subjects, were this day taken out of jail and put on board His Majesty's brig the Sappho, and sailed for Jamaica, where, it is said, they are to be tried for their lives; consequently, I questioned each, respectively, as to the place of their nativity, and title to protection by the American Government, when they stated as follows, to wit:

David Dick, seaman, that he was born in the north of Ireland, but has resided in the United States ever since the year 1793; has served ten years in the United States' Navy, viz: on board the frigates Chesapeake, President, Constitution, John Adams, schooner Enterprise, and gunboat No. 2. David Dick, shoemaker, in Alexandria, is his uncle. Dick is about five feet six and a half inches high, dark hair, has a scar on his left elbow and one on each wrist; he entered on board the Sarah Ann in Baltimore.

John Gaul, seamen, says he was born in Marblehead, State of Massachusetts, where his parents, brothers, and sisters now reside; is married in New York, and his wife (Mary Gaul) lives in Roosevelt street, No. 37; has a regular discharge from the Navy of the United States, by Captain Hugh G. Campbell, dated at St. Mary's, Georgia, 14th August, 1812; says he has served on board the United States' brig Vixen, and gunboats No. 10 and No. 158, from the last of which he was discharged. Gaul is twenty-seven years of age, about five feet seven inches high, brown hair, light complexion; he entered on board the Sarah Ann in Baltimore.

Michael Pluck, ordinary seamen, says he was born in Baltimore; his parents are dead, but he is known by William, Doulan, Thomas Turner, and McDonald, of Baltimore; has a sister in some part of Pennsylvania, whose name is Ann Welsh;

was never at sea before; never had a protection. Pluck is twenty-seven years old, five feet six and a half inches high, and has a scar on his left cheek bone; entered on board the Sarah Ann at Baltimore.

Thomas Rodgers, seamen, says he was born in Waterford, Ireland, but has resided many years in the United States, and has been duly naturalized; a copy of which naturalization is filed in the custom-house at Baltimore; is known by Joseph Carey, and Tom Rodgers, cork-cutter, both of Baltimore; has a wife and three children in Baltimore; has lost his protection, but requests Joseph Carey to do all he can to effect his discharge from the British. Rodgers entered on board the Sarah Ann in Baltimore.

George Roberts, a colored man and seaman. This man I had not an opportunity of questioning, but I know him to be a native born citizen of the United States, of which fact he had every sufficient document, together with free papers. Roberts entered on board the Sarah Ann in Baltimore, where he is married.

Sonty Taylor, boy, says he was born in Hackensack, New Jersey, but has neither friends, relations, nor acquaintance there; says Jane Snowden, of Savannah, Georgia, is his mother; never had a protection. Taylor is fifteen years old, has brown hair and light complexion; he entered on board the Sarah Ann in Savannah.

RICHARD MOON,  
*Late commander of the Sarah Ann.*

## D.

Copy of a letter from Admiral Warren to Mr. Mitchell, agent for the exchange of American prisoners of war, dated

HALIFAX, Oct. 21, 1812.

SIR: I have the honor to receive your letter and its enclosures, relating to Thomas Dunn,\* and beg leave to inform you that it appears the said man is married in England, has been eight years in His Majesty's service, and received a pension from Government; under these circumstances, and the man never having made any application for his discharge from prison, he continues on board the Staira.

I have the honor to be, sir, your most obedient, humble servant,

JOHN BORLASE WARREN.

## E.

Extract of a letter from William H. Savage, late agent for American seamen and commerce at Jamaica, to the Secretary of State, dated

WASHINGTON, Dec. 1, 1812.

I take the liberty to enclose you copies of a correspondence which took place between Vice Admiral Stirling (commanding the Jamaica station) and myself, since the declaration of war. I

\*The application was made at the request of his father, John Dunn, of Boston, who transmitted a deposition of his birth.

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should have furnished it you at an earlier period, but an accident prevented, which I was not aware of until my arrival at this city.

## No. 1.

Copy of my letter to Vice Admiral Stirling, commanding on the Jamaica station, on the subject of American seamen, after the declaration of war.

KINGSTON, JAMAICA, Aug. 6, 1812.

SIR: Enclosed is a copy of a letter received by me yesterday from on board His Majesty's ship *Sappho*, purporting to have been written by four American seamen on board that ship, with a view to solicit my aid towards effecting their discharge, in consequence of the declaration of war by the Government of the United States against Great Britain.

In making this application, I am fully aware that my duties ceased as agent for the commerce and seamen of the United States on the knowledge of such declaration being made known here; but, sir, I am led to believe that, at this period, it will not be deemed inadmissible on your part to receive, nor improper on mine to make, the request that you will be pleased to grant an order for the discharge of these seamen, feeling conscious (should they even not be protected with the usual documents afforded to citizens of the United States) that an English seaman would not declare himself otherwise than such under existing circumstances.

I seize the present opportunity, also, to forward to you twenty-one documents, as proofs of the citizenship of that number of seamen, said to have been impressed by ships of war on this station, the greatest number of which have been heretofore unsuccessfully claimed by me on behalf of the United States, and which may still comprise, at this time, some part of the crews of His Majesty's ships on this station.

I beg further to state to you, that I have received numerous applications from on board various of His Majesty's ships on this station, for the relief of seamen, who, I doubt not, are entitled to the protection of the American Government, many of them having with them the proofs of their citizenship, as I am led to believe from the assertions contained in their communications. Applications have also been made for the relief of many, without success; the latter amount in number to forty-six, as per list of names enclosed, several of whom, I understand, have been shifted (since their impressment) on board of other vessels than those they were at first taken on board of. All of which I beg to offer for your consideration, feeling, as I do, anxious to extend my last efforts in behalf of those seamen who are entitled to them, and at the same time being impressed with the idea that it would be foreign to you, sir, to retain any Americans in the service of the navy of Great Britain, contrary to their disposition, during the present conflict. I therefore take the liberty of adding to my former request, that you will be pleased to grant orders that such seamen may be

discharged from duty on board His Majesty's ships on this station.

With sentiments of the highest respect, &c.  
WILLIAM H. SAVAGE.

## No. 2.

Copy of Vice Admiral Stirling's Secretary's letter in answer to mine to the Vice Admiral, of 6th August 1812.

ADMIRAL'S PENN, Aug. 7, 1812.

SIR: I am desired by Vice Admiral Stirling to acknowledge the receipt of your letter of yesterday's date, and to acquaint you that directions were given some days ago that all seamen in the squadron under his command, who can prove themselves to be American born subjects, should be sent to the prison-ship until an exchange of prisoners is established between the two countries, in consequence of the late declaration of war by the United States against Great Britain.

I return, herewith, the papers which accompanied your letter, and am, sir, &c.

C. STIRLING, JR., *Secretary.*

## No. 3.

Extract of a letter from William H. Savage, Esq., late agent for American seamen and commerce at Jamaica, to Charles Stirling, Jr., Esq., dated

KINGSTON, Sept. 16, 1812.

In answer to my letter of the 6th ultimo, you were pleased to inform me that directions had been given by the Vice Admiral, some days prior to the date of my letter, for the removal of all native Americans (who could prove themselves such) from on board His Majesty's ships to that of the prison-ship; but as some time has now elapsed since you were pleased to give me this information, and learning that some instances of detention at present exist on board His Majesty's schooner *Decouverte*, I am led to embrace the subject again, as, in one instance, I shall hope to satisfy Vice Admiral Stirling of the man's being entitled to his removal from duty on board His Majesty's schooner of war. The person alluded to is Elijah Stirling, an American seaman, who was impressed from on board the British merchant ship *Brilliant*, at the bay of Honduras, in the early part of the year 1810, by His Majesty's schooner *Flor del Mar*, and has since been detained on board of various of His Majesty's ships on this station, although provided with a regular protection, which instrument this man got conveyed to me about the 20th of September following, and which was by me forwarded to Admiral Rowley, accompanied (as usual in like cases) with a request that the man might be discharged. On the receipt of my letter, the Admiral answered, through his secretary, that the nature of Stirling's impressment was such that he could not comply with my request; but which answer was unaccompanied, in return, with the protection in question, and what has become of it I am unable to say.

About this period I was led to understand from

*Relations with Great Britain.*

Admiral Rowley, that all American seamen who should be impressed from on board any British merchant vessel would be retained in the service of His Majesty; but that all American seamen who should be impressed from on board of American vessels would, on application, accompanied by proof, be discharged. As this information was received about the period of my application for the discharge of Stirling, I was led to conclude it stamped the nature of his impressment; and what confirmed it in my mind was, that I received similar assurances to various applications made for American seamen, who had, under various circumstances, shipped on board of British ships, and were from thence impressed on board of His Majesty's ships of war, all of which, I hope, the Admiral will be pleased to take into consideration; for, to insist on the service of this man, I think, will be a dereliction to the marked manner of his amiable endeavors to distinguish and relieve American seamen from duty on board the squadron under his command. I beg to enclose a note from Mr. Meek, the late secretary, relative to my application for this man's discharge, and to observe that, if it is possible, the protection may yet be found among the papers of the late secretary, as it has not been usual to return me the protections of those men whose applications for discharge were not complied with.

I beg furthermore to observe, that there appears also to be on board His Majesty's schooner *Decouverte* two other American seamen, viz: John Englefield and Richard Lauderkin, the former of whom asserts that he served his apprenticeship to the trade of a cooper at Boston, but has lost his protection; the latter declares himself to be a native of Rhode Island, and that his protection has been destroyed by Mr. Oliver, commander of His Majesty's schooner *Decouverte*. I shall not now animadvert on the impropriety of such a circumstance, but request, should the instance here cited be found correct, that they may meet the attention of the Vice Admiral.

## No. 4.

Extract of a letter from Vice Admiral Stirling's Secretary to W. H. Savage, Esq., in answer to his of the 16th September, 1812.

ADMIRAL'S PENN, Sept. 19, 1812.

I have just received your letter of the 16th instant, which I have laid before Vice Admiral Stirling, and I am directed to acquaint you that Elijah Stirling and other persons on board of His Majesty's schooner *Decouverte*, said to be American seamen, have not, when called upon, produced proof of being subjects of the United States. They do not fall under the description of persons which I informed you in my letter of the 7th ultimo were intended to be discharged from the King's service, and to be detained on board the prison-ship until an exchange of prisoners takes place with America.

The note from Mr. Meek, dated the 21st September, 1810, is returned herewith; and as it appears thereby that Admiral Rowley thought the

circumstances under which Elijah Stirling was impressed did not permit him to be discharged, Vice Admiral Stirling does not feel himself justified in attending to the man's wishes on a bare assertion. The protection you allude to is not to be found among Admiral Rowley's papers left in this office.

[The following documents, relating to the same subject, were communicated to Congress by the Message of January 22, 1813.]

*Extract of a letter from John Mitchell, Esq., agent for American prisoners of war at Halifax, to the Secretary of State, dated*

DECEMBER 5, 1812.

I cover you a copy of a correspondence which took place in consequence of different applications I received, either by letter or personal, from persons detained on board His Britannic Majesty's ships of war in this place.

I formerly mentioned to you that the Admiral had assured me, that he would discharge all the citizens of the United States who were in the fleet, and actually did discharge several. This induced me to think I should be correct, and in the perfect line of my duty, in sending him a list of the applicants to me, and requesting an inquiry to be made, and discharges granted to all who were citizens of the United States. I, therefore, covered him a list of the names now enclosed to you, which produced his letter to me of the same date, (1st December, 1812.)

I read it with surprise, because some of the men had informed me their captains had refused to report them to the Admiral. Now, if no one here was or is allowed to do it, their situation is hopeless.

It is not my place, sir, to reason with you on this business. *Proof of nativity*, in his first letter, is a strong expression; and how few are in possession of it, and how many who cannot obtain it!

The second paragraph in the second letter prevents my interfering; and I have since been obliged to send a man away, requesting him to apply to his commanding officer.

Copy of a letter from John Mitchell, Esq., agent for American prisoners of war at Halifax, to Admiral Sir John Borlase Warren, dated

DECEMBER 1, 1812.

SIR: Since the sailing of the last cartels, in which you were pleased to send home several Americans who had been in His Britannic Majesty's service, others, who are now on board of the *Centurion* and *Statira*, have requested of me to procure their discharge, and to be sent home.

Will you, sir, have the goodness to direct an inquiry, and order the release of such as are citizens of the United States?

Besides the enclosed list, I am told there are others, whose names I have not.

I have the honor to be, &c.

JOHN MITCHELL, Agent, &c.

*Relations with France.*

Copy of a letter from Admiral Sir John Borlase Warren, to John Mitchell, Esq., agent for American prisoners of war at Halifax, dated

DECEMBER 1, 1812.

SIR: I have the honor to acknowledge the receipt of your letter of this date, respecting some men therein mentioned on board His Majesty's ships under my command, said to be citizens of the United States; and, in reply, beg to acquaint you, that whenever I have received representations from the captains of His Majesty's ships of any part of their crews being citizens of America, with sufficient proof of their nativity, I have directed their discharge from the service.

I must observe to you, that I cannot permit the interference of any applications from men belonging to His Majesty's ships, but through their commanding officers; and, in your department, of prisoners of war only, I shall at all times be most happy to receive your communications.

I have the honor to be, &c.

JOHN BORLASE WARREN.

Copy of a letter from John Mitchell, Esq., agent for American prisoners of war at Halifax, to Admiral Sir John Borlase Warren, dated

DECEMBER 3, 1812.

SIR: I had yesterday the honor to receive your letter dated the 1st instant, and observe that you cannot permit the interference of any application from men on board His Britannic Majesty's ships of war, but through their commanding officers.

Desirous of conforming, as far as possible, to established regulations, permit me the honor to inquire of your Excellency, if, by your letter, I am to understand that I am not to receive the applications of seamen declaring themselves citizens of the United States, who are on board of His Majesty's ships of war, and communicate the same to you? If this is the meaning, I shall most certainly conform, though I must lament the regulation. I have the honor to be, &c.

Copy of a letter from Admiral Sir John Borlase Warren to John Mitchell, Esquire, agent for American prisoners of war at Halifax, dated

DECEMBER 4, 1812.

SIR: In reply to your letter dated yesterday, I have to acquaint you, that whenever any address is made relative to men on board His Majesty's ships, it must be by the commanders of such vessels direct.

I cannot permit any application by other persons, in time of war, but in the above mode.

It will always afford me pleasure to attend to your wishes in any respect relative to the situation or exchange of prisoners, or to afford any aid or relief in my power. I have, &c.

From Commodore Rodgers to the Secretary of the Navy.

U. S. FRIGATE PRESIDENT,  
Boston, Jan. 14, 1813.

SIR: Herewith you will receive two muster-books of His Britannic Majesty's vessels Moselle

and Sappho, found on board the British packet Swallow.

As the British have always denied that they detained on board their ships of war American citizens, knowing them to be such, I send you the enclosed, as a public document of their own, to prove how ill such an assertion accords with their practice.

It will appear by these two muster-books that, so late as August last, about an eighth part of the Moselle and Sappho's crews were Americans; consequently, if there is only a quarter part of that proportion on board their other vessels, that they have an infinitely greater number of Americans in their service than any American has yet had an idea of.

Any further comment of mine on this subject I consider unnecessary, as the enclosed documents speak but too plainly for themselves.

I have the honor to be, &c.

JOHN RODGERS.

HON. PAUL HAMILTON,  
*Secretary of the Navy.*

FRANCE.

Communicated to the Senate, January 26, 1813.]

*To the Senate of the United States:*

I transmit to the Senate a report of the Secretary of State, complying with their resolution of the 18th instant.

JAMES MADISON.

JANUARY 26, 1813.

DEPARTMENT OF STATE,  
January 25, 1813.

The Secretary of State, to whom was referred the resolution of the Senate of the 18th instant, has the honor to submit to the President the enclosed papers, marked A and B.

All which is respectfully submitted.

JAMES MONROE.

A.

Extract—Mr. Barlow to the Secretary of State.

PARIS, May 2, 1812.

I have the honor to transmit herewith the copy of my note of yesterday to the Duke of Bassano. The importance of the objects, and the urgency of the occasion, I hope will justify the solicitude with which I have pressed the propositions.

The result, as far as it may be known within a few days, shall be transmitted by the Wasp. The Hornet sailed from Cherbourg the 26th of April, with orders to land a messenger in England with my despatches for Mr. Russell, but not to wait a return from London.

[Enclosed in the preceding.]

Extract—Mr. Barlow to the Duke of Bassano.

MAY 1, 1812.

In the note I had the honor to address to your Excellency on the 10th November last, the spirit

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of the English Government was so far noticed as to anticipate the fact, now proved by experience, that its Orders in Council, violating the rights of neutrals would not be revoked. The declaration of the Prince Regent, on the 21st of April, has placed that fact beyond all question. In doing this he has repeated the assertion, so often advanced by his ministers and judges, that the decrees of France of a similar character are likewise unrevoked.

You will notice that he finds a new argument for this conclusion in your Excellency's late report to the Emperor concerning neutral rights, in which you avoid taking notice of any repeal or modification of these decrees, or of their non-application to the United States. We know, indeed, that they do not apply to the United States, because we do not suffer our flag to be denationalized in the manner evidently contemplated by the Emperor in the rule he meant to establish. But it would have been well if your Excellency had noticed their non-application to the United States, since His Majesty has uniformly done it in his decisions of prize causes since November, 1810.

It is much to be desired that the French Government would now make and publish an authentic act declaring the Berlin and Milan decrees, as relative to the United States, to have ceased in November, 1810; declaring that they have not been applied in any instance since that time, and that they shall not be applied in future.

The case is so simple, the demand so just, and the necessity so urgent, that I cannot withhold my confidence in the prompt and complete success of my proposition.

The declaration I solicit, though important in itself, should not be sent to the United States alone. It ought to be accompanied with two other acts of equal or superior moment. These are, a convention of indemnity for past spoiliations on American property, in violation of our mutual rights, and a treaty of commerce, founded on the liberal principle of reciprocal benefit and concession, which I have understood from your Excellency that His Majesty is ready to prescribe.

Extract—Mr. Barlow to the Secretary of State.

PARIS, May 12, 1812.

After the date of my last, of which I have the honor to enclose you a copy, I found, from a pretty sharp conversation with the Duke of Bassano, that there was a singular reluctance to answering my note of the 1st of May. Some traces of that reluctance you will perceive in the answer that finally came, of which a copy is here enclosed. This, though dated the 10th, did not come to me till last evening. I consider the communication to me so important, in the present crisis of our affairs with England, that I despatch the Wasp immediately to carry it to Mr. Russell, with orders to return with his answer as soon as possible.

I am confident that the President will approve the motive of my solicitude in this affair, and

the earnest manner in which I pressed the Minister with it, as soon as my knowledge of the declaration of the Prince Regent enabled me to use the argument that belonged to the subject. When, in the conversation above alluded to, the Duke first produced to me the decree of 28th April, 1811, I made no comment on the strange manner in which it had been so long concealed from me, and probably from you. I only asked him if that decree had been published. He said no; but declared it had been communicated to my predecessor here, and likewise sent to Mr. Serrurier, with orders to communicate it to you. I assured him that it was not among the archives of this Legation; that I never before had heard of it; and since he had consented to answer my note, I desired him to send me, in that official manner, a copy of that decree, and of any other documents that might prove to the incredulous of my country (not to me) that the decrees of Berlin and Milan were in good faith, and unconditionally repealed with regard to the United States. He then promised me he would do it; and he has performed his promise.

I send you a copy of the April decree, as likewise of the letter of the Grand Judge, and that of the Minister of Finance, though the two latter pieces have been before communicated to our Government, and published.

[Enclosed in Mr. Barlow's despatch of May 12, 1812.]  
*The Duke of Bassano to Mr. Barlow.*

PARIS, May 10, 1812.

SIR: In conversing with you about the note which you did me the honor to address to me on the 1st May, I could not conceal from you my surprise at the doubt which you had expressed in that note respecting the revocation of the decrees of Berlin and Milan. That revocation was proven by many official acts, by all my correspondence with your predecessors and with you, by the decisions in favor of American vessels. You have done me the honor to ask a copy of the letters which the Grand Judge and the Minister of Finance wrote on the 25th of December, 1810, to secure the first effects of that measure; and you have said, sir, that the decree of the 28th April, 1811, which proves definitively the revocation of the decrees of Berlin and Milan in regard to the Americans was not known to you.

I have the honor to send you, as you have desired, a copy of these three acts: you will consider them without doubt, sir, as the plainest answer which I could give to this part of your note. As to the two other questions to which that note relates, I will take care to lay them before the Emperor. You know already, sir, the sentiments which His Majesty has expressed in favor of American commerce, and the good dispositions which have induced him to appoint a Plenipotentiary to treat with you on that important interest.

Accept, sir, the assurances of my high consideration.

THE DUKE OF BASSANO.

*Remission of Forfeitures.*

[Enclosed in Mr. Barlow's despatch of May 12, 1812.]

PALACE OF ST. CLOUD,  
April 28, 1811.

NAPOLEON, Emperor of the French, &c. &c.  
On the report of our Minister of Foreign Relations:

Seeing, by a law passed on the 2d of March, 1811, the Congress of the United States has ordered the execution of the provisions of the act of non-intercourse which prohibits the vessels and merchandise of Great Britain, her colonies, and dependencies, from entering into the ports of the United States:

Considering that the said law in an act of resistance to the arbitrary pretensions consecrated by the British Orders in Council, and a formal refusal to adhere to a system invading the independence of neutral Powers, and of their flag, we have decreed, and do decree, as follows:

The decrees of Berlin and Milan are definitively, and to date from the 1st day of November last, considered as not having existed [*non avenus*] in regard to American vessels.

By the Emperor: NAPOLEON.

The Minister Secretary of State:  
THE COUNT DARU.

B.

Mr. Barlow to the Secretary of State.

PARIS, October 25, 1812.

SIR: By the letter from the Duke of Bassano, and my answer, copies of which are herewith enclosed, you will learn that I am invited to go to Wilna; and that I have accepted the invitation. Though the proposal was totally unexpected, and, on many accounts, disagreeable, it was impossible to refuse it without giving offence, or at least risking a postponement of a negotiation which I have reason to believe is now in a fair way to a speedy and advantageous close.

From the circumstances which have preceded and which accompany this proposition, I am induced to believe that it is made with a view of expediting the business. There may, indeed, be an intention of coupling it with other views not yet brought forward. If so, and they should extend to objects beyond the simplicity of our commercial interests and the indemnities which we claim, I shall not be at a loss how to answer them.

I shall have the honor to write you as soon as possible from Wilna, and shall return to Paris without any unnecessary delay.

I remain, &c. JOEL BARLOW.

Hon. JAS. MONROE, Secretary of State.

[Enclosed in Mr. Barlow's despatch of October 25.]

*The Duke of Bassano to Mr. Barlow.*

WILNA, October 11, 1812.

SIR: I have had the honor to make known to you how much I regretted, in the negotiation commenced between the United States and France, the delays which inevitably attended a corres-

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pondence carried on at so great a distance. Your Government has desired to see the epoch of this arrangement draw near. His Majesty is animated by the same dispositions, and willing to assure to the negotiation a result the most prompt; he has thought that it would be expedient to suppress the intermediaries, and to transfer the conference to Wilna. His Majesty has, in consequence, authorized me, sir, to treat directly with you; and, if you will come to this town, I dare hope that, with the desire which animates us both to conciliate such important interests, we will immediately be enabled to remove all the difficulties which, until now, have appeared to impede the progress of the negotiation.

I have apprized the Duke of Dalberg that his mission was thus terminated; and I have laid before His Majesty the actual state of the negotiation, to the end that, when you arrive at Wilna, the different questions being already illustrated [*éclaircis*] either by your judicious observations, or by the instructions I shall have received, we may, sir, conclude, without delay, an arrangement so desirable, and so conformable to the mutually amicable views of our two Governments. Accept, sir, &c.

THE DUKE OF BASSANO.

[Enclosed in Mr. Barlow's despatch of October 25.]

*Extract—Mr. Barlow to the Duke of Bassano.*

PARIS, October 25, 1812.

In consequence of the letter you did me the honor to write me on the 11th of this month, I accept your invitation, and leave Paris to-morrow for Wilna, where I hope to arrive in fifteen or eighteen days from this date.

The negotiation on which you have done me the honor to invite me at Wilna is so completely prepared in all its parts between the Duke of Dalberg and myself, and, as I understand, sent on to you for your approbation about the 18th of the present month, that I am persuaded, if it could have arrived before the date of your letter, the necessity of this meeting would not have existed, as I am confident that His Majesty would have found the project reasonable and acceptable in all its parts, and would have ordered that Minister to conclude and sign both the Treaty of Commerce and Convention of Indemnities.

# REMISSION OF FORFEITURES.

[Communicated to the House, November 25, 1812.]

MR. CHEVES, from the Committee of Ways and Means, to whom was referred so much of the President's Message of the 4th instant, as relates to the late importations of British manufactures; also, the petitions of sundry merchants of New York; of John Tompkins, and Adam Murray, merchants, of Richmond, Virginia; of William W. Woolsey, and others, merchants, of New Haven, Connecticut; of sundry merchants of the city of Philadelphia; of sundry merchants of Boston; of sundry merchants, and others, of the

*Remission of Forfeitures.*

city of Albany, in the State of New York; of sundry merchants of the city of Richmond, Virginia; of sundry other merchants of Philadelphia; of sundry merchants of Savannah, in the State of Georgia; of sundry merchants of Norfolk, Virginia; of David Lamb, of Charleston, South Carolina; of sundry merchants of the city of Baltimore; of Charles Sigourney, and James Wells, merchants, of the city of Hartford, in the State of Connecticut; and of sundry merchants of the town of Alexandria, in the District of Columbia; all praying for the remission of penalties and forfeitures, incurred by them as importers of British manufactures, made the following report:

That they have bestowed on the subject a degree of attention proportioned to its importance; that they have, in the present investigation, confined themselves to the cases of importations directly from the United Kingdom of Great Britain and Ireland, and that the result of their examination and inquiries will be found—

First, In a correspondence with the Secretary of the Treasury.

Secondly, In a detailed examination of committees of merchants from Boston, New York, Philadelphia, and Baltimore, and some accompanying documents.

Thirdly, In a statement made by Mr. Russell, late *Chargé des Affaires* of the United States at the Court of London, who, at the request of the committee, was so obliging as to attend them and give this statement.

That, on a view of the whole subject, the committee are of opinion that the Secretary of the Treasury has full power to remit or mitigate the penalties and forfeitures incurred, should an interposition in either way be called for by the circumstances of the case, and, therefore, recommend, that it be

*Resolved*, That it is inexpedient to legislate upon the subject, and that the petitions, with the accompanying documents, be referred to the Secretary of the Treasury.

TREASURY DEPARTMENT,  
November 18, 1812.

SIR: I have the honor, in compliance with the request of the Committee of Ways and Means, to submit the following statement of facts, so far as they have come to my knowledge, in relation to the late importations of British manufactures.

By the act of 2d March, 1811, it was enacted that certain provisions of the act "to interdict the commercial intercourse between the United States and Great Britain, and France, and their dependencies, and for other purposes," should (until the President's proclamation, authorized by the act, should have been issued) have full force, and be immediately carried into effect against Great Britain, her colonies, and dependencies. The provisions thus re-enacted forbade, under penalty of forfeiting the vessel and cargo, to import into the United States, or to put on board any vessel, in a foreign port, with intent thus to

import, any merchandise of British growth or manufacture, from whatever port imported, and any merchandise whatever from a British port.

It was further enacted, by the same act, (of March 2, 1811,) that, in case Great Britain should so revoke or modify her edicts, as that they should cease to violate the neutral commerce of the United States, the President of the United States should declare the fact by proclamation; that such proclamation should be admitted as evidence, and that no other evidence should be admitted of such revocation or modification, in any suit or prosecution for the recovery of the forfeitures abovementioned; and that the restrictions, above stated, should, from the date of such proclamation, cease, and be discontinued.

By the act of Congress of 18th of June, 1812, war was declared between the United States and Great Britain.

On the 23d of the same month, an Order in Council was issued by the British Government, purporting to be a revocation of the edicts of that Government which violated the neutral commerce of the United States, subject, however, to certain conditions, specified in the said order.

Immediately after promulgation of that order, British merchandise was laden on board the American vessels, then in the harbors of Great Britain, with intent to import the same into the United States. It has been stated, and it is believed, that by far the greater part of those shipments were made in conformity with previous orders from merchants in America to their correspondents in England, by which these had been instructed to make such shipments whenever a revocation of the former British Orders in Council should take place; it having been presumed by the American merchants that such a revocation would, by virtue of the abovementioned act of Congress, of 2d March, 1811, produce a discontinuance of the prohibitions to import British merchandise into the United States.

On the 30th day of July following, the account of the declaration of war having reached England, a temporary embargo was laid on American vessels; but, on the ensuing day, they were, by order of Council, permitted to continue to take cargoes of British merchandise, and to proceed to the United States, being for that purpose provided with licenses protecting them, notwithstanding the existing hostilities, against capture by British cruisers. It has been stated that the time for obtaining such licenses was, with respect to American vessels then in England, limited to the fifteenth of September last; and, if that be correct, all the vessels of that description (with the exception of some, which, having been captured by American cruisers, retaken by the British, and sent into Halifax, have not yet been released, and perhaps of some which may have had very long voyages) may be presumed to have arrived in the United States.

It appearing that, however reasonable the expectation of the discontinuance of the non-importation act might have been, yet, not only the act



*Remission of Forfeitures.*

had made the President's proclamation the only evidence of the fact, but that the restrictions were to cease, not from the date of the revocation of the Orders in Council, but from the date of the proclamation; that the act to put merchandise on board a vessel, with intent to import, was forbidden by those restrictions; and that (all the merchandise having been thus laden, either prematurely, and before a proclamation could, in point of time, be issued by the President, or after the knowledge of war) all the shipments were therefore made in direct contravention of an existing provision; the collectors were instructed to seize and libel all such vessels and cargoes, without discrimination. No exception was made with respect to vessels captured and sent in by American privateers, because, if American property, their right to make prizes was, by law, confined to enemies' property; and, whether American or enemies', the forfeiture to the United States had been incurred from the date of the shipment, and could not be superseded by a subsequent capture. Instructions to prevent any interference in that respect, by either public or private armed vessels, were also issued by the President, such interference being considered wholly unnecessary, since the vessels from England were of their own accord coming into the ports of the United States. It appears, however, that in some cases, the owners of privateers, that have made captures of that description, intend to contest the prior claim to forfeiture of the United States; and that, in those cases, the question must be decided by the courts.

Previous to the time when those importations took place, it being understood that the judges of some of the district courts had restored to the claimants prohibited merchandise, under seizure, on their giving bond for the appraised value thereof, the district attorneys were, on the 15th day of May, 1812, instructed by the Comptroller to oppose every motion to that effect, for the reasons stated in his letter. It appearing afterwards that the judges of some of the most commercial districts had, notwithstanding that opposition on the part of the United States, continued to order the restoration of British merchandise, no appeal being practicable, since the orders were immediately executed, and the commercial interest of those districts where the restoration was refused, being deeply affected by the want of uniformity in the decisions, the Comptroller did, on the 5th day of October last, authorize the district attorneys to withdraw their opposition in all cases of *bona fide* American property. Copies of his two circulars on that subject are enclosed. All the prohibited merchandise restored to the claimants has been so restored by order of court, without any interference other than a forced acquiescence on the part of the Executive officers of Government. With respect to the mode of appraisal, it appears that the merchandise has generally been valued at its prime cost, adding thereto only the amount of duties, for which separate bonds have, in most cases, been taken. To this there are some exceptions, the valuation being,

in Rhode Island, below, and in Connecticut, probably above the prime cost of the goods.

From returns transmitted by the collectors, some of which are in part on estimate, it appears that the prime cost of all the British merchandise imported as above stated, subsequent to the alleged revocation of the British Orders in Council, amounts to about four millions sterling; and that the bonds given for the value will fall short of eighteen million of dollars, exclusively of the bonds given for duties, and which may be estimated at five millions of dollars. This embraces all the importations already made, and will not be materially increased by vessels still on their way, unless it be true, as has been asserted, that American vessels, which had sailed to the Baltic, under certain British licenses, will, on their arrival in England, be provided with new licenses for their return to the United States, with cargoes of British merchandise. Such importations would form a class distinct from those now under consideration. Of the importations heretofore made, about three-eighths in value were in vessels which sailed from England between the 23d of June and 1st of August last, and the residue in vessels which sailed subsequent to the month of July. The whole may be arranged under the following heads, viz:

1. Merchandise purchased prior to the non-importation act, of 2d March, 1811, and which had remained warehoused in England at the risk of the American owners.

2. Merchandise purchased subsequent to the act of 2d March, 1811, and prior to the 23d of June, 1812, and which, since its purchase, had remained in the same manner in England.

3. Merchandise shipped on American account and risk, in pursuance of orders given prior to the 23d June, 1812, but not paid for till after the execution of such orders, and on different terms of credit.

4. Merchandise shipped in pursuance of similar orders, but consigned, in the first instance, to the order of the American correspondent of the British merchants, to be delivered, according to contingent instructions, to the real purchaser; which merchandise becomes American property when thus delivered, but remains till then on British account and risk.

5. Merchandise shipped entirely on British account.

There are no data from which, without further investigation, the amount of each class can be estimated.

The advance on the prime cost at which the merchandise thus imported has been, or can be sold, is not precisely known, and will undoubtedly vary according to the species of the goods. It has been asserted that, in some sales, the advance was sufficient to cover not only the prime cost, charges, and duties, but even the whole of the amount of the bonds. That this may have actually taken place in some particular instances, may be true; and it is probable that the importers would, so far as they could, cover, in their sales, the estimated risk of being obliged to pay those

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bonds. But, so far as can be judged from the current price of goods, and from some sales said to have taken place, the supposition that they have been, or can be, generally, made so as to cover the whole amount of the bonds, is believed to be greatly exaggerated.

It is, however, an indisputable fact that the importation falls generally far short of the ordinary former annual importations from Great Britain, and of the actual demand for most species of the merchandise imported; and that the goods are accordingly generally sold at an advance greater than the usual profits of importers. The difference constitutes an extraordinary profit, and is a tax levied on the community by the persons who have imported the merchandise contrary to law; which extra profit or tax is solely due to the non-importation act continuing in force with respect to all other persons and importations.

Of the forfeitures accrued, one-half is by law vested in the custom-house officers, or informers, and the other half in the United States. The power to remit the share of the United States, and of all other persons, in whole or in part, and on such terms and conditions as may be deemed reasonable and just, is by law vested in the Secretary of the Treasury. But, considering the magnitude and unforeseen nature of the case, it was thought proper not to exercise that authority until Congress had taken the subject into consideration, and prescribed, if they thought proper, the course to be pursued. All the petitions already received remain therefore suspended; and, in order to avoid useless expenses, the parties have been generally advised to delay making their applications in the manner directed by law, until the decision of Congress should be ascertained.

I have the honor to be, with great respect, sir, your obedient servant,

ALBERT GALLATIN.

HON. LANGDON CHEVES,

*Chairman Com. Ways & Means.*

[Circular.]

TREASURY DEPARTMENT,

*Comptroller's Office, May 15, 1812.*

SIR: As it may be supposed that, on a seizure under the law of March, 1, 1809, commonly called the non-importation law, the claimant has a right to the repossession of the property seized, by giving bond as pointed out by the 89th section of the collection law, it is deemed proper to submit to you, respectfully, the views taken of this subject at this Department. If such be a correct construction of it, it is plain that it will go far towards defeating the ends contemplated by its passage.

The policy and intention of this act evidently was to shut the door as effectually as possible against the introduction of British manufactures. The motive of taking bond from a claimant under the 89th section of the collection law, as in all similar or analogous cases, unquestionably is, not that it may be received in lieu of the thing

surrendered, but to compel or insure the forthcoming of the thing itself. But, the state of things existing, and always liable to exist, under the non-importation act, would hinder the operation of this obvious principle. The enhanced value of the British commodity, arising from a general scarcity, may make it, in most cases, the interest of the illicit importer to forfeit his bond, the penalty being regulated by the nominal or invoice price of the goods, or a sufficient intermediate rise taking place before the trial, although the penalty was fixed according to the market value at the time of seizure. The act, in its foundation, its objects, and entire scope, aims at the total exclusion from the country of all British goods. If thwarted in that object, its next is to transfer them, when unlawfully introduced, to the hands of the Government. To suffer them, when seized for an apparent breach of this law, to pass to the immediate and virtual ownership of the claimant, and be subject to his disposition, would, in a great degree, have the effect to turn it aside from all its original intentions.

As the design of the act would thus be liable to frustration, it may be asked where the authority is found for this alleged right in the importer? Its allowance, if it would endanger the primary objects of the Legislature, should rest on express words, or implication as imperious. The 18th section of the act of the first of March, 1809, in referring to the collection law as the rule of proceeding, does so, it is apprehended, only in relation to the distribution of the forfeitures. The first clause of that section stands as an integral provision, relying upon no other law for its support, and capable of being executed as to all the purposes of a civil or criminal suit, merely on its own footing, with the aid, indeed, of the incidental powers of the court. It is not seen that this general or resulting power, often inherent in courts, to order the repossession of a thing claimed on stipulation, or caution being given, either where it was for the benefit of all concerned, or where the thing itself was perishable, or where hardships was feared to an innocent owner, would be applicable under this law. But, if this be the ground of the importer's claim, it, of course, leaves out of sight, in every relation to the point, the 89th section of the collection law. If he cannot, then, stand upon the faith of any imperative injunction put upon the court, it will follow that his application must be addressed to its discretion; and you are, in such case, requested to resist the application, as opposed to the demonstrable policy of every part of the act. That a redelivery to the party should have been made to take place, by special provision, under the collection law, is reconcileable with the system of which it is a part, which looks only at a derivative offence against the revenue, without anywhere contemplating an original exclusion of the article seized. But, a similar course must be essentially repugnant to the spirit of a law which addresses itself to the interests of a foreign Power, declaring that that Power shall be debarred

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all benefit of transporting her wares to the United States, and seeks to close, with penal sanctions, the very threshold to their entrance. The concluding part of the eighth section of the law further distinguishes it from the collection act, and by prohibiting, under a penalty, the purchase of British goods, knowing them to be liable to seizure, holds out an intimation that every practicability to their sale should be foreclosed, while their liability to condemnation remains undecided.

I beg leave to call your attention to the third section of the act, in *pari materia*, of the 2d of March, 1811. The first proviso of this section, by pointing out a specific case in which British goods, unlawfully introduced, may be delivered to the owner upon bond, furnishes, it is conceived, an argument of weight, that in no other state of things ought it to be done.

These suggestions are respectfully submitted for your consideration and government. You will, doubtless, be able to extend them, and will superadd such other views in elucidation of the meaning ascribed to the law at this Department, as your own reflections may supply. Under a conviction of its importance to the genuine intentions of the Government, it is particularly wished that you would resist, in every instance, a restoration to the claimant of the property seized, and never part, unless by the express order of the court, with the substantial security of a lien for the inferior and precarious safeguard of personal responsibility.

I have the honor to be, with great respect, your obedient servant,

RICHARD RUSH.

[Circular to District Attorneys.]

TREASURY DEPARTMENT,  
Comptroller's Office, October 5, 1812.

SIR: Since the circular of the 15th of May, addressed to you from this office, it appears, from information received, that, in some of the districts, the courts hold themselves bound to deliver up the vessel and goods, seized in violation of the non-importation law, on satisfactory bond given by the claimant, while, in others, the opposition made to this course by the attorneys of the United States, has been found to avail with the court to refuse such delivery.

It is desirable that the law in question, whatever views may still be entertained of its original intention, should operate equally on the merchants or other owners of property seized, in every part of the Union.

Seeing, therefore, that a different line of practice is found to govern the courts in different districts, upon this point, and in order to prevent, as far as possible, any inconvenience or supposed injustice to individuals, resulting from such difference, you are hereby requested to withhold the opposition you were requested to make to the delivery of the property to the claimant, on his giving bond; the object being, that, as the decisions of the courts are not to be controlled by this Department,

you may thus lend your aid, negatively at least, towards the uniform execution of the law. You will be pleased, however, to consider this relaxation as extended to property owned by American citizens only, and to urge, in all cases, a true and adequate appraisement.

I have the honor to be, &c.

RICHARD RUSH.

— — —, Attorney of the U. S. for — — —.

TREASURY DEPARTMENT, Nov. 23, 1812.

SIR: I had already transmitted an answer to your letter of the 18th instant, when I had the honor to receive that of the 20th, requesting, in addition to the statement of facts, such further and other views of the subject of the late importations of British manufactures, as I might think proper, and particularly, whether, in my opinion, their importation has not been actually and materially advantageous to the Government.

Having, in the answer already transmitted, stated all the important facts within my knowledge, I cannot present the subject in any new or other view than that exhibited by those facts.

The payment of five millions of dollars for duties on those importations, had been stated, and is, advantageous to Government. Indirect aid may also, perhaps, have been derived from the increase of supplies, and from the return of American capital, produced by that event. But these advantages, whatever they may be, have been forced upon Government, and cannot be urged as a service rendered by these importers. Had those advantages been supposed sufficient to outweigh other political considerations, the importations might have been, and still might be, permitted and regulated by law. In the case of the Calcutta vessels, whose cargoes (for the landing of which in the United States bond had been given in India) have, by the act of 5th of July last, been admitted to entry, this was done on the express condition of the merchandise being warehoused, and remaining subject to the future disposition of Government—thus reserving the power to fix the terms on which those cargoes should be restored to the owners and their sale be permitted. In the case now under consideration, the persons who have imported contrary to law, do not seem entitled to more advantageous terms than would probably have been imposed, had a previous permission been granted.

Upon the whole, I continue in the opinion, submitted with great deference to the committee, that the one half of the forfeitures, which would otherwise fall to the share of collectors, ought to be remitted; but that, with respect to the one-half belonging to the United States, justice to the community requires that, when remitted, at least an equivalent may be secured to the public for extra profit beyond that on common importations, which arises from the continuance of the non-importation act.

I have the honor to be, &c.

ALBERT GALLATIN.

HON. LANGDON CHEVES, Chairman, &c.

*Remission of Forfeitures.**Examination of Committees of Merchants, &c.*

Several committees of the petitioners and other merchants interested in these importations, attended your committee: these were, John G. Coster, John Mason, Washington Irving, and Abraham R. Laurence, from New York; Nathan Appleton, from Boston; Caleb Cresson, junior, William Schlatter, and Samuel Harvey, from Philadelphia; and Luke Tiernan, Philip E. Thomas, and Evan Thomas, from Baltimore.

The statements made by these gentlemen, who are men of character and respectability, were delivered, apparently, with such fairness and candor, as induced your committee to give much credit to them. The statements made by the committee from New York have been corroborated and confirmed by declarations made on oath, by persons disinterested, as well as those interested in these importations.

NEW YORK.—The committee from New York stated, that the current reports of enormous advances obtained by them, were not well founded; that some of them were entirely unfounded; that they had, for example, heard it stated that three hundred per cent. had been obtained in New York; that a local mode of selling English goods in New York, must have laid the foundation of this misstatement; that it is usual in that city to demand and obtain three for one, in the sale of such goods: which means £3 New York currency for £1 sterling, which really yields but sixty-eight and two-thirds per cent. advance on the prime cost. They admitted that particular articles had been sold for very high prices; that these prices, however, were not exacted from a desire or determination to include in them the penalties which might be enforced by the Government, but from the great competition which existed in the market for the articles; that, for these articles, there was, to use the words of Mr. Irving, one of the committee, “a ravenous demand;” that it was understood that there were three army contractors, at one time, bidding upon each other; that these articles were few in number, and formed but a small part of the amount imported; that they did not exceed one-eighth part of that amount; that there were none of them in the invoices of some importers; that Mr. Coster, one of the petitioners, had imported to the amount of nearly £20,000 sterling, prime cost, and had not received an article of this description; that the goods which commanded such high prices consisted, principally, of blankets and coarse woollens; that these were bulky articles, and paid a high freight; that the same circumstance made them liable to an extraordinary portion of other charges; that the very high prices which were obtained, were often received by second and third purchasers, and not by the importers; that there are three descriptions of dealers in these goods in New York: 1st. The large importers. 2dly. Large purchasers, who have money at command, who are well acquainted with the state of the market for every article, and, when there is a scarcity of a particular article, monopolize it and

raise the price—these are called jobbers. And, 3dly. The retailers; and they stated, that the very high prices alluded to had frequently been received by the second, and, sometimes, by the last description of persons, and not by the petitioners. Hardware, cotton goods, glass ware, and fine goods, generally, have not been sold at high prices. Some goods have become unsaleable, from change of fashions; some come into disadvantageous competition with American manufactures, which have grown up or increased in quantity, while these goods have been lying in England; some are not worth cost and charges. Goods for the Southern markets (South Carolina and Georgia, for example) are unsaleable, from the expense or impracticability of land carriage, the risk of water conveyance, from the cruisers of the enemy, and other circumstances of war. The occurrence of peace and free intercourse would make the importers great losers on many of those importations. The following were stated as the ordinary charges: four per cent. export duty; two per cent. inland charges on valuable fine dry goods; the same charges on coarse goods are much greater; one per cent. for packing, wrappers, &c.; one per cent. for insurance and storage against fire till shipped; two per cent. freight on the average of fine goods; ten per cent. on coarse goods; on crockery, from two hundred to three hundred per cent. insurance against sea risk, &c; three per cent. on the aggregate amount of value as usually calculated in policies; commission for purchasing, from two and a half to five per cent.; one per cent. for receiving and paying over the remittance. The average of the lowest duties, as calculated at the custom-house, amounts to thirty-three and one-third per cent. on the prime cost; on crockery and glass ware, hardware, plated ware, silks, millinery, &c., fifty per cent. The duty is calculated by adding ten per cent. on the prime cost, and on all charges which precede the shipment, except commission and outside packages.

The following were stated as extraordinary charges and losses: One and a half per cent. for extra storage and insurance against fire. Many of the goods lay in store for more than eighteen months: average storage twelve months; seven per cent. (the legal interest of the State of New York) for the average detention of one year on the purchase money. The goods which have been disposed of, were sold on a credit, without interest, of from six to twelve months; average seven to eight months. A great portion of the goods will remain long on hand; all Spring goods, at least till the Spring. Great charges and embarrassments have been incurred from capture by American privateers. Cargoes have been carried into and delivered in ports distant from those in which they were owned, and to which they were destined. Importers have sustained grievous court charges under the prosecutions directed by the Government. In New York, the courts have authorized a separate libel against the property of every importer, on each of which the costs have been \$50 25, though the property may not have

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consisted of more than a single package. The gross charges will average sixty per cent. on fine goods, and on coarse, they will be greater. They admit that, if the penalties and forfeitures be remitted, the petitioners will have a handsome profit, not much, however, exceeding the usual profits of ordinary trade, and it will be the whole profit of two or three years of embarrassed, and otherwise losing commerce. If the bonds be exacted, it will greatly distress all the importers. Many, it will ruin. The petitioners had given no orders which authorized the shipment of their goods under the actual circumstances which attend their shipment. It was an error of judgment in their agents, though it was a very general error, and one which ought not to prejudice the importer. It was confidently believed in England, that the importation would be permitted, and deemed legal. A printed paper, of which a copy is annexed, was circulated among all those engaged in the American trade, as proof that there was no danger in these shipments. The petitioners knew so little of the actual state of the fact, that they were, at first, greatly afraid of British capture. Those who shipped after the existence of the war was known, did it to get the property out of the hands of the enemy, choosing to rely rather on the justice and the moderation of their own Government, than the forbearance of a foreign Government and an enemy. If the property had lain in England to the end of the war, it would have been ruinous to the owners. A portion of their property was originally invested in British manufactures, because they had no means of getting it home without great sacrifices, and on account of the actual and growing depreciation of the paper credit of Great Britain at the time.

The petitioners have never violated any of the laws of the country, while their particular interests have often been injuriously and deeply affected by them.

Some of the petitioners might, by a compromise, which was offered to them by the American privateers, which had captured their property, have obtained it by the payment of only two and a half per cent.; and though this would not have given them any legal security, it might have enabled them *actually* to evade the operation of the law, as they believe some persons, dealing less fairly, have done by the same means. These petitioners, incapable of such an act, have relied on the justice of their own Government. They did not believe—the citizens of New York, generally, had no idea, that, under the hard circumstances of their case, their own Government would either forfeit their property, or mulct them where they intended no violation of the laws of the country.

[Copy of the printed paper referred to in the foregoing statement.]

*Extract from the present non-importation act of the United States.*

"SEC. 2. *And be it further enacted*, That, in case Great Britain shall so revoke or modify her edicts, as that they shall cease to violate the neutral commerce of the United States, the Presi-

dent of the United States shall declare the fact by proclamation, and such proclamation shall be admitted as evidence, and no other evidence shall be admitted of such revocation or modification, in any suit or prosecution, which may be instituted under the fourth section of the act to which this is a supplement. And the restrictions imposed, or which may be imposed, by virtue of the said act, shall, from the date of such proclamation, cease and be discontinued."

*Extract of a letter from Mr. Monroe, the American Secretary of State, to His Majesty's Minister, Mr. Foster, dated*

WASHINGTON, July 26, 1811.

"It is in the power of the British Government, at this time, to enable the President to set the non-importation aside, by rendering to the United States an act of justice. If Great Britain will cease to violate their neutral rights, by revoking her Orders in Council, on which event alone the President has the power, I am instructed to inform you, that he will, without delay, exercise it, by terminating the operation of this law."

BOSTON.—The gentleman who attended on the part of the merchants of Boston, made a statement, in all important particulars the same as the foregoing statement of the committee from New York, except so far as the following particulars may distinguish them:

He stated that he was in England from June, 1810, to May, 1811. That large quantities of goods were purchased and prepared for shipment, before 2d February, 1811, on account of the merchants of Boston, which arrived at the shipping ports too late to be shipped before the day last mentioned. A portion of these were shipped in the ensuing Spring and Summer to Halifax and Montreal, and the greater part of those thus shipped, have been introduced into the United States since the war.

The remainder of the goods, purchased before the 2d February, 1811, forms part of those which have been lately imported into the United States, directly from Great Britain. Considerable portions of the goods thus imported, were purchased subsequently to the 2d February, 1811, and before the revocation of the British Orders in Council, by those who had funds in England which they could not bring home; and there was a very considerable portion of these importations purchased immediately after the revocation of the Orders in Council. The last description of goods was shipped in pursuance of specific orders previously given, which were to be executed when the shipment of them should be deemed legal, or by confidential agents in England, acting under general powers. The general orders relative to the shipment of the goods on hand, or those ordered, were, to ship when it should be legal to do so.

The goods purchased before 2d February, 1811, were purchased on the usual credit of three and six months. Those purchased between that date and the revocation of the Orders in Council, were almost exclusively purchased with cash, as

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the only object of the purchase was to invest the money of the purchasers. The greater part of those purchased at the moment of the revocation was purchased with cash which had been placed in England for the purpose.

At the period of the declaration of war, the exchange was at twenty per cent. discount. Afterwards, it was difficult to negotiate exchange at all, and it was thrown something under that depreciation. Since the late importations, it has risen, and is now at from fourteen to fifteen per cent. discount.

The goods which were purchased after the 2d February, 1811, and before the revocation of the Orders in Council, were purchased at a lower than the usual rate. In six months after 2d February, 1811, cotton goods suffered a depression equal to fifteen per cent. After the revocation, there was a small advance.

Generally, the importers of British goods were not the shippers of American produce to the Peninsula, or elsewhere. There are exceptions; many houses, much engaged in the shipments to the Peninsula, are among the late importers. A very large portion of the goods lately imported on account of the merchants of Boston, were imported by those engaged in the exportations to the Peninsula, who never imported British goods before. Probably three-fourths of the importations into Boston have been sold. The extraordinary profit beyond that of peace and free intercourse, is about from five to ten per cent. The late importations are less than the usual Fall importations.

PHILADELPHIA.—The committee from Philadelphia confirmed, in all important particulars, as applicable to that city, the statement of the committee from New York, and added the following particulars: The merchants of Philadelphia send off their orders for English manufactures from nine to twelve months before the period at which they expect the arrival of the goods. A considerable portion of the late importations, which have been made on account of the merchants of Philadelphia, were prepared for shipment by December, 1810. A considerable portion was purchased between February, 1811, and the revocation of the Orders in Council, and a few were purchased immediately after the revocation. Orders were given, in the Summer of 1810, for the bulk of the goods which have been lately imported, and the principal part of these orders were executed by the month of December, 1810; but, on the appearance of the President's proclamation of the 2d November, 1810, the merchants countermanded the shipment of their goods, and the further execution of their orders, and gave instructions that they should be completed, and the shipments made when the Orders in Council should be revoked, and their importation into the United States become legal. A great portion of these goods was paid for at the time they were put up; some of them bought upon the usual credit, but paid for long before the revocation of the Orders in Council.

Dry goods, which were put up prior to 2d Feb-

ruary, 1811, and those which were purchased after the revocation of the Orders in Council, were laid in at about the usual prices. Those purchased in the intervening time, were from ten to fifteen per cent. lower. Some articles of hardware cost rather an increased price, and none were purchased at reduced prices.

The importers of British manufactures are not, in Philadelphia, exporters of produce. The trade of that city is divided among two classes of merchants; one class imports, and the other exports. The importer almost universally makes his remittances in bills. The rate of exchange in Philadelphia varied, in 1811, from ten to twenty-two and a half per cent. discount. In 1812, it has varied from ten to twenty per cent. discount. Two weeks ago, it was at sixteen. In the Fall of 1810, it was at about five per cent. discount. The merchant does not consider as a part of his profit the advantage gained from a temporary depression of exchange, because, on other occasions, he has to pay a corresponding advance. It will be found, in twenty years, or other considerable given periods, to be balanced. When it has been above par, they have not increased the usual advance on their goods. They have never, before late periods, known exchange on England to be so low; never knew it, before these periods, to be lower than ten per cent.

Generally speaking, about one-third of the late importations remains on hand. The profits have been rather greater than formerly; from five to ten per cent. greater. But the merchants have been idle for almost two years, paying house rent, and all the other expenses of their establishments, without any gain, and, considering these disadvantages, they will, notwithstanding this profit, be losers, not gainers, on their business.

The quantity imported is not a full importation.

BALTIMORE.—The committee from Baltimore confirmed, as applicable generally to that city, the statement of the committee from New York, except so far as the following particulars may be variant from it:

They stated that Mr Russell, late Chargé des Affaires of the United States at London, had been applied to for his opinion and advice, and that he did advise these shipments, and gave it as his opinion, that the shippers would be safe; that the original importers of Baltimore had sold nearly all their goods; that they have not more than one-fifteenth or one-twentieth of their importations on hand; they have passed into the hands of jobbers and speculators; the average profit which the importers have obtained, beyond that of ordinary years, is between 5 and 10 per cent.

The usual practice, under the late restrictions, has been to give orders for goods to be executed on the contingency of a remission of these restrictions. It is believed that many of the goods lately imported, were purchased before the revocation of the Orders in Council, and many before 2d February, 1811. The hardware importations were all of this description. One of the committee, in October and November, 1811, passed through the great manufacturing towns in Eng-

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land, and saw the warehouses full of goods, packed up, which were said to be there on American account.

A great many of these goods were paid for before their shipment, others were remitted for before their arrival, and others have been obtained on the usual credit. It has not been the general practice to pay for goods at the time of purchase; but merchants have had much more the means of paying for the late importations, than they had to pay some years ago; this increased ability has arisen from the circumstance that this description of merchants have done no business for nearly two years past. There will be always some not wholly paid for; but, whether paid for or not, whenever they are out of the warehouse, they are considered as on account of the importer.

The importers of these goods are not the same persons who have shipped American produce to the Peninsula. It is usual for these importers to place funds in England, in anticipation of their orders for the purchase of goods; the usual operation is, by the purchase of bills of exchange.

Dry goods have been purchased lately, at a lower rate than formerly, in England; those purchased in March, April, and May, were obtained at a lower rate than the same goods have been purchased at, at any other time. It was only at these periods that goods were purchased at an unusually low rate.

They have not taken into the calculation of the profit of these importations, the advantage on the purchase of bills; this is not included, because, if, on an average, the merchant pays no more than par for the bills he remits, he is satisfied, and the experience of merchants proves, that no material advantage results to them in a course of years. There are cases in which persons went to England, provided with extensive funds, and have speculated on the low prices of the last Spring; but the great bulk of the goods imported were shipped in consequence of orders long before given. The importations have effected the return to this country of so much American capital. These importations have not exceeded the orders given—they have been less. Five ships were carried into Norfolk, three of which belonged to Baltimore, and one merchant gave bonds for nearly the whole of their cargoes, which averaged £100,000 sterling each. One vessel, belonging to Baltimore, the *Eliza Ann*, was carried into Boston; the value of the cargo exceeded £100,000 sterling, and one man gave bonds for the whole cargo; these bonds were sometimes given in the expectation of a commission, without any authority from the owners of the property.

NEW YORK.—The committee from New York, in a subsequent communication, stated further, that the late importations into that city included purchases which were made after the revocation of the Orders in Council, as well as those which were made before the 2d February, 1811, and at intervening periods, but that the great mass had been purchased, and was on hand, remaining on American account, from the latter end of the year 1810. They did not think, they said, on being

interrogated to that point, that this was a large calculation, notwithstanding the relaxation introduced by the law of March, 1811; because the merchants had asked information of the Secretary of the Treasury, before the passage of that law, as to the construction of the act of the 1st May, 1810, and the President's proclamation of 2d November, 1810, and were informed by that officer, that all goods which should not arrive in the United States prior to the 2d February, 1811, would be liable to forfeiture; that they therefore countermanded their orders, and did not enjoy the advantage which was granted by the act of March, 1811.

Orders, which are to be executed in the Fall, are usually given by the first January preceding, but the merchant frequently revises his orders in the Spring.

Some of the goods lately imported have been purchased at a low rate, but a great part of them has not; as many of them have been long laid in, the purchases have been made at lower than former prices.

The importers of British manufactures in New York, are a separate class of men from the shippers of American produce; they had no interest in the shipments to the Peninsula; there is scarce an exception within the knowledge of the committee, except Mr. Coster, one of themselves, whose trade was not to the Peninsula, but to the North of Europe; not one-half of the American property in England, has been brought home; there were but twenty days in which to make shipments; 23d June, the Orders in Council were revoked. On the 13th July, news of the declaration of war reached Liverpool, and it is believed no licenses were granted afterwards. The late importations are not equal to one-half of the usual supply, perhaps not one-third.

There has been an advantage obtained by the shippers to the Peninsula, by the depreciation of exchange in England; when they took bills, they were obliged to take bills. The exportation of specie was not generally permitted, and where not specially permitted, the attempt to export, if discovered, was coupled with forfeiture.

The course of trade practised by importers of British manufactures, as to payments, has been changed; formerly, the shipments were made on credit; the purchases are made with cash; the merchant who wants goods, and has not money, obtains his credit here, instead of obtaining it in England, as formerly; this country is, and has been for some time, the creditor of England; those who have imported on credit, for some time past, have been ruined. It is believed that the greater part of the goods, the orders for which were executed in the Fall of 1810, was paid at the time of purchase. There are, it is believed, cases in which the goods have been shipped to order, and were deliverable on contingencies to the American merchant, but they are probably few in number, because it cannot be presumed that, in the hostile attitude which the countries have presented, many men would be found who were disposed to place their property in a situation so precarious.

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Mr. Russell stated, that, after the revocation of the Orders in Council, many of the American merchants did apply to him to obtain his opinion, whether they could ship British manufactures to the United States with safety or not? That, before the revocation of the orders, upon considering the whole circumstances of the case, examining the words of the law, and perceiving that its operation depended solely on the revocation of the Orders in Council—considering the evident bearing of the examinations in Parliament, and the ground on which the opposition contended for the revocation of the orders, which was not so much an act of justice to the United States as the advantage that was promised to their own manufacturers, he thought it his duty to countenance the idea that shipments made after the revocation of the orders, would be admitted into the United States; that this ground was taken by the advocates of a revocation of the orders, who declared that they would advise their friends to ship, as they believed shipments, in the event of a revocation, might be made with safety, and that he thought good policy required him to countenance the idea, in order to co-operate as far as possible, with the advocates of the revocation of the orders.

That, after the revocation of the orders, he continued to declare, and did declare, to the merchants who applied to him, as his opinion, that they might make shipments with safety. This opinion applied only to the cases where shipments were made before war. After a knowledge of the war had reached England, he declared distinctly to the merchants, that the ground of a probable annulment of the non-importation act, by the Government of the United States, had ceased.

Mr. Russell stated, however, that, after the knowledge of the declaration of war had reached England, he did still advise the American merchants to ship, because, if the property remained in England during the war, it would be ruinous to the holders. Many persons, after the revocation of the orders, and before the news of war arrived, had made purchases. He would not be understood to say that he advised the merchants that, in case the law should not be repealed, they would be permitted to enjoy the advantages of a monopoly, and the consequent ordinary profits, but merely that the property would not be confiscated. This, however, he said, was not at all a subject of conversation. His opinion that shipments might be made with safety, was founded as well on a presumption that the law would be annulled, as that the shippers would, in any event be placed, as nearly as possible, on the footing on which they would have stood had the law been annulled. That, if the law should not be annulled, the special circumstances under which the shipments were made would entitle them to an exemption from its penalties. He believed that, before the revocation of the orders, and after the interdiction, purchases were made under an expectation of a revocation, and these were made at reduced prices. The depression was not very

material. After the revocation there was a rise, but they remained, throughout, lower than in common times, when the trade was assuredly free. He did not, however, pretend to be very conversant in these matters.

Some of the goods were purchased before the 2d February, 1811; but, he would suppose they formed a very small portion of the importations. In the period intervening between that date and the revocation of the orders, there had been more considerable investments, but he believed the greatest portion were purchased after the revocation. There was then great activity in investments, but he thinks it probable they were purchased with funds which had been remaining there for the purpose, and which were appropriated agreeably to orders which had been previously given, to be executed in the event of the revocation of the Orders in Council.

The knowledge of the declaration of war reached England about the 25th or 26th of July. Official information was not so soon received, and therefore the embargo which was laid by the British Government was not imposed till the 20th July. The order, subsequently issued, permitting the departure of licensed vessels, but limiting their departure to the 15th of —, was extended in some special cases, but not generally.

*The following affidavits and letters are selected from a number reported by the Committee as part of their report; those which are not printed are of a like tenor.*

UNITED STATES OF AMERICA, } ss.  
City of New York,

By this public instrument, be it known to all whom this doth or may concern, that I, John T. Irving, a public notary in and for the State of New York, by letters patent under the great seal of the said State, duly commissioned and sworn, and in and by the said letters patent invested "with full power and authority to attest deeds, wills, testaments, codicils, agreements, and other instruments in writing, and to administer any oath or oaths, to any person or persons," do hereby certify, that, personally appeared before me, Charles Osborne, Cornelius Heyer, H. Van Wagenin, John Stoutenburgh, William Irving, Nathaniel Richards, John Dodgson, John Mowatt, jr., Eliphalet Williams, Robert C. Cornell, John B. Dash, Benjamin W. Dwight, John R. Willis, Isaac Carow, Joseph Cornell, William W. Mott, James Jenkins, Francis B. Winthrop, jr., Moses Judah, Garret B. Abeel, Edward Lyde, George Newbold, Seabury Tredwell, Leonard Kip, James J. Roosevelt, Charles Smith, jr., Robert Lee, Ebenezer Irving, James S. Bailey, Joseph Curtis, and Henry King, all merchants, of the city of New York, and well known to me, who severally subscribed their names to the within deposition, and, being by me severally sworn and affirmed, respectively deposed and affirmed to the truth of its contents.

In testimony whereof, I, the said notary, have subscribed these presents, and I have hereunto affixed my seal of office, the sixteenth day of No-



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vember, in the year one thousand eight hundred and twelve, and of the independence of the United States of America the thirty-seventh.

JOHN T. IRVING, *Notary Public.*

STATE OF NEW YORK, }  
City of New York, } ss.

The subscribers, importers of hardware, in the city and county of New York, and merchants there resident, being severally duly sworn and affirmed, severally say:

That they have severally received importations of British manufactures, in their line, since the revocation of the Orders in Council by Great Britain; that, of these importations, they believe not more than one-third have been sold; that sales by the package, or wholesale, have been made at an average advance of about ninety per centum on the invoice; that the average charges of inland carriage, export duty, shipping commissions, insurance, freight, duties of import, &c., amount to sixty-five per centum, of course not leaving a profit on their investments of more than sixteen per cent., or of twenty-five per cent. on the invoice cost, exclusive of any accidental benefit arising from exchange; that this benefit has been much less than would appear, by reason of many of the importers having remitted their funds, twelve, eighteen, and even twenty-four months ago, at which period exchange was not more than from six to ten per cent. under par; and against whatever gain may have been so made the loss of interest, with the expense of storage, insurance from fire, &c., in England, may be considered as nearly a counterbalance. And these deponents and affirmants severally further say, that the said sales that have been effected by the package have been of the articles most in demand, and therefore most profitable; that the residue consists of many articles less saleable, and some of which, owing to the increase of the manufactures of this country, have been supplanted, and must be sold at little or no profit, such as nails, spades and shovels, planes, hollowware, whip thongs, webbing, mill saws, brushes of most descriptions, &c.

Charles Osborne,	James Jenkins,
Cornelius Heyer,	F. B. Winthrop, jr.,
H. Van Wagenin,	Moses Judah,
John Stoutenburg,	Garret B. Abeel,
William Irving,	Edward Lyde,
Nathan <sup>l</sup> Richards,	George Newbold,
John Dodgson,	Seabury Tredwell,
John Mowatt, jr.,	Leonard Kipp,
E. Williams,	J. J. Roosevelt,
Robert C. Cornell,	Charles Smith, jr.,
John B. Dash,	Robert Lee,
Benj. W. Dwight,	Ebenezer Irving,
John R. Willis,	James S. Bailey,
Isaac Carow,	Joseph Curtis,
Joseph Cornell,	Henry King.
Wm. W. Mott,	

I, David Dunham, of the city of New York, auctioneer, do hereby certify and declare, that I am in daily practice of vending, at public sale,

goods of the late importations from Great Britain, &c.; that my sales embrace almost a general assortment of British manufactures, and that, for the present week alone, I have sold to the amount of nearly forty thousand dollars; that, with very few exceptions, the said goods have not brought above seventy to eighty per cent. upon the original costs; that the few instances where they have brought above that advance, it has more frequently occurred that they have not brought cost and charges, and, in some instances, that there has been from ten to twenty per cent. loss on goods. And I do further certify and declare, that, in the importations of goods, in which I have been interested, I have found a number of packages that it has been with difficulty that more than cost and charges have been obtained; and that I have *now* on hand an *entire* importation, that (owing to the long detention of said goods at New London, at which port they have been wrongfully detained) I am willing to sell for cost and charges; and further, that, when the whole of the goods *now* under detention, shall be brought into market, that the prospect is, that they will be considerably lower. And I do further declare, that I have been interested (under the firm of Dunham and Randolph) in the purchase of a very large amount of British manufactured goods, associated with three or four other houses, say upwards of half a million of dollars, and a great proportion of which have been purchased at a *bare* mercantile profit, after deducting all the contingent expenses attending the same; and lastly, that, in speaking of the cost and charges of all goods, the several penal bonds to the United States are never taken into calculation as composing any part thereof. To all these facts I subscribe, and stand ready to testify with my corporeal oath, if necessary.

DAVID DUNHAM.

I, Matthias B. Edgar, a partner in trade with Mr. Dunham, the annexed named J. Valentine Van De Water, and I, Edward D. Burke, clerks in the employ of the said David Dunham, are privy to the facts set forth in his certificate, so far as relates to his auction sales, and the goods imported by him, and of those now on hand; of the facts relating to the goods in which he has had an interest, with J. F. Randolph, under the firm of Dunham and Randolph, we believe to be true.

MATTHIAS B. EDGAR.  
VAL. VAN DE WATER.  
EDWD. D. BURKE.

NEW YORK November 16, 1812.

The subscribers, commission merchants, and auctioneers, of the city of New York, do certify, that they have sold, both at private and at public sale, large quantities of British manufactured goods, which have been imported here in vessels which left Great Britain subsequently to the Order in Council of the 23d of June last; that, in almost all instances, they had the original invoices of the said goods, and that they are of opinion, from various calculations they have made,

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the said goods have, upon an average, afforded a profit to the importers, beyond the cost and charges, of about, but not exceeding, twenty per cent. They further certify, that they have sold several separate invoices of goods, which did not produce as much as the cost and charges.

**BOGGS, LIVINGSTON, & Co.**

**NEW YORK, ss.**

On this 16th day of November, in the year one thousand eight hundred and twelve, before me, B. Livingston, an associate Justice of the Supreme Court of the United States, personally appeared James Boggs, one of the mercantile firm of Boggs, Livingston, & Co., of the said city, who, being duly sworn, depose and saith, that the facts stated in the foregoing certificate are, to the best of his knowledge and belief, substantially true.

**JAMES BOGGS.**

Sworn the 16th November, 1812, before me.

**B. LIVINGSTON.**

Jabez Harrison, of the city of New York, merchant maketh oath that he has imported, during the present fall, since the repeal of the Orders in Council, about two hundred and thirty packages of dry goods, consisting of what is usually termed a general assortment; that, from those goods, he has sold several packages at less than cost and charges; that he has now on hand about twenty packages, for which, on an average, he is not offered more than the costs and charges; that upwards of one hundred packages of the foregoing have been sold at an advance varying from sixty to eighty-two and a half per cent., and not exceeding the latter.

**J. HARRISON.**

Sworn before me, the 17th November, 1812.

**WM. BLEECKER, Notary Public.**

**UNITED STATES OF AMERICA, } ss.  
City of New York,**

By this public instrument, be it known, to all to whom the same doth or may concern, that I, John T. Irving, a public notary in and for the State of New York, by letters patent under the great seal of the said State, duly commissioned and sworn, and in and by the said letters patent invested "with full power and authority to attest deeds, wills, testaments, codicils, agreements, and other instruments of writing, and to administer any oath or oaths, to any person or persons," do hereby certify, that, personally appeared before me, Daniel Hawxhurst, of the city of New York, merchant, known to me, who, in my presence, subscribed his name to the within deposition, and, being by me duly affirmed, deposed to the truth of its contents.

In testimony whereof, I, the said notary, have hereunto affixed my seal of office, the sixteenth day of November, in the year one thousand eight hundred and twelve, and of the independence of the United States of America the thirty-seventh.

**J. T. IRVING, Notary Public.**

**UNITED STATES OF AMERICA, } ss.  
District of New York,**

Daniel Hawxhurst, of the city of New York, merchant, being duly affirmed, saith, that he is

well acquainted with the value of hardware; that, within forty days past, he has purchased the best and scarcest articles, and those which yield as much profit as any others, at twenty-five per cent. advance on the net amount of the invoice, at a credit of four months, and the discounts allowed in England were allowed to him; and that he knows the charges which have to be paid out of this advance of seventy-five per cent., in export duty, shipping expenses, insurance, commissions, freight, duties on imports, &c., amount to from sixty to seventy per cent., and that the importer receives no more than a fair mercantile profit on the articles of this kind.

**DANIEL HAWXHURST.**

Affirmed to, this 16th of November, 1812, before me,

**JNO. T. IRVING, Notary Public.**

**UNITED STATES OF AMERICA, } ss.  
District of New York,**

Leonard Kipp, of the city of New York, merchant, being duly sworn, depose and saith, that he is well acquainted with the value of hardware; that, within ten days last past, he has purchased the best and scarcest articles, and those which yield the largest profit, at ninety per cent. advance, on six months credit; and that he knows the charges which have to be paid out of this advance of ninety per cent., viz: export duty, shipping commissions, insurance, freights, duties of import, &c., amount to from sixty to seventy per cent., and that the importer receives no more than a fair mercantile profit for articles of this kind. And this deponent further saith, that he has now on hand a large quantity of nails, spades, and shovels, which, in consequence of the high duties and extra charges, he is willing to sell for the first cost, together with the double duties and invoice expenses, &c., to which the same are subject.

**LEONARD KIPP.**

Sworn the 14th November, 1812, before

**B. LIVINGSTON.**

**UNITED STATES OF AMERICA, } ss.  
District of New York,**

Asa Hoyt, of the city of New York, merchant, being duly sworn, depose and saith, that he is well acquainted with the value of hardware; that, within forty days last past, he has purchased the best and scarcest articles, and those which yield the greatest profits, at ninety per cent. cash, and one hundred per cent. at four and six months credit, by the package, and he knows the charges which have to be paid out of this advance of ninety to one hundred per cent., viz: export duty, shipping commissions, insurance, freight, duties of import, &c., amount to from sixty to seventy per cent., and, after taking from the list of importations, low-priced cutlery, butt-hinges, and a few other light articles, the residue will not, under the double duties, bear a future importation, excepting in quite limited quantities, particularly brass, hollow ware, shovels, &c., which now form a considerable part of the importations, and do

*Remission of Forfeitures.*

not, excepting at retail, pay any profit, and that the importer receives no more than a fair mercantile profit on the whole.

ASA HOYT.

Sworn this 10th day of November, 1812, before me,

C. BOSTWICK.

Notary Public, New York.

NEW YORK, November 14, 1812.

DEAR SIR: Some of my friends and neighbors feel a great interest on a subject now before Congress, in which, having personally but little interest, my views of the subject may perhaps be useful to you, when your attention shall be drawn to its consideration; at any rate, I presume on your friendship to receive with candor the ideas I shall communicate.

Many of our importers of British goods are under immense responsibilities to the Government, for themselves and their friends; the course of my business would, at almost any other season, have placed me under similar circumstances; but not expecting, myself, the repeal of the Orders in Council, I had withdrawn my brother from England last year, and having no other there to act for us, we have not imported a cent on our account this season, although we have pretty large funds there, arising from shipments made a long time since. We have only bonded for three thousand seven hundred and fifty dollars, amount of a small shipment made to us by an American citizen, in which we have no interest.

I am fully persuaded that Government wish to act with perfect fairness in relation to these bonds, and that the merchants have only to make out their case, as entitled to relief, to receive the full measure of it.

That those American merchants who happened to be in England, or had partners or agents there, on the repeal of the Orders in Council, should venture to make shipments, I presume can surprise no one, who has attended to the correspondence which has passed between the two Governments; at least, I am ready to say that, not knowing or expecting war, I should certainly have done so freely, had I been there. The only objection of any weight, to cancelling the bonds, that I have heard, is the large profits the merchants have realized; it is true, that some of those who were fortunate enough to have their vessels arrive early in the season, without the interruption of private or public cruisers, and who sold off their goods immediately, have secured unusually large profits on some descriptions of goods, say low-priced woollens, &c. These prices have been obtained in consequence of the previous scarcity, and a belief that, in consequence of the war, further supplies were precarious, and not from any idea of indemnity against the risk of the penal bonds to Government. In all our large cities, there are a class of dealers who buy by the package from the importers, and sell by the piece to the country traders; this class of people have probably felt rather unfriendly to the importers, to whom they gave any extra profit, and many

of them have represented the importers' profits as extravagant, in order to cover their own extortions on the country merchants. If, however, for this single season, the importers' profits should be unusually large, is it anything more than the fair chance of trade, or an indemnity against the losses of former periods, arising out of the course of measures pursued by the Government for the general good, but which have borne with great severity on the importing dry good and hardware merchants? I do assure you that, although I have conducted my business with my usual industry and judgment, that, for the last three years, I have not made my current expenses; and this I know to be the case with many others; therefore, although I do not share with them the handsome profits of this season, I feel that they are entitled to it, and do not envy them. Thus far, I have only viewed the bright side of the subject; there is, however, probably, a majority of those who have given bonds, who will only make a fair mercantile profit, in consequence of the expenses on, and delay in, the receipt of their goods, arising from detention by the cruisers, who have, in many instances, sent in the merchant ships to distant ports from where they were bound, and thus obliged the consigners of the goods to incur heavy expenses in procuring the release. Under these circumstances, the delay in getting possession of the property, has, in most instances, deprived the merchant of the greater part of his expected profit; and, it is within my own knowledge, that now, when goods have fallen in price, so as to afford, in most instances, little more than the usual small profits, and, in some instances, no profit, many of the importers are but just getting possession of a great portion of their goods, and many are not yet released. We have, ourselves, a ship in the freighting business, which was proceeding from Scotland to this port, with a valuable cargo of dry goods, on account of various merchants in this city; she was captured in August last by a privateer, and carried into Bristol, Rhode Island. The ship is released on bond, but nearly the whole of the cargo is this day in store in Bristol, under charge of the marshal or collector—the privateer (the *Yankee*) refusing to consent to their release on bond. Are not these cases of hardship? I am, with much respect, &c.

JAS. HEARD.

LEWIS CONDUCT, Esq.

BALTIMORE, Nov. 17, 1812.

MY DEAR SIR: In consequence of the death of our mutual and respectable friend, Mr David Armour of this city, as his particular friend, and administrator of his estate, the duty has devolved upon me of stating particularly the transaction as it occurred, and the circumstances under which the goods lately imported by Armour and Jenkins arrived. This subject, I observe, being referred to a committee of the House of Representatives, to make report on, imposes an obligation on me stating such facts and circumstances, relating to this business, as I conceive may be use-

*Remission of Forfeitures.*

ful. This I should have done at an earlier period, but was prevented by the want of the documents from Norfolk, which came to hand the night before last only. For many years past, as will no doubt appear, by referring to the Treasury Department, Armour & Jenkins, (saddlers of this city,) were in the practice of importing, every Spring and Fall, a small quantity of saddlery. Pursuing their customary plan, on the 30th of June, 1810, they ordered the goods, which have lately arrived, the subject which is now before the committee. Shortly after this period, Mr. D. Armour was taken sick, and died on the 11th of November following, leaving a widow and six children. During the time between the 30th of June, 1810, and his death, part of the money for those goods was paid; the balance, Mr. Jenkins, the surviving partner, paid, by great exertions, in the latter end of March, 1811, having obtained the money, in part, from the Union Bank of Maryland, on loan, to effect this object. The inducements to those exertions were, that Messrs. William Walker & Co., of Philadelphia, who were the agents of the Messrs. Walkers in England, of whom the goods were ordered, gave him a discount of  $7\frac{1}{2}$  per cent. for prompt payment. You will please to observe, that, when this money was paid, the goods were expected in a very short time; this opinion was induced by the letter of William Walker & Co., of Philadelphia, dated 13th March, 1811, an extract from which is herewith enclosed. The circular from the Treasury Department, it is presumed, which reached England in the interim, stopped their shipment, as, by that instrument, no goods were allowed to be landed in this country, which should arrive after the 2d of February; although it so turned out, that, had they been shipped, by a subsequent law of Congress they would have been legally imported, as the law admitted all goods that should leave England before the 2d of February. In the midst of those difficulties, and believing, from the declaration of our Government, that the non-importation act would be repealed, as soon as the British Government should revoke their Orders in Council, Mr. Jenkins, the surviving partner, with, I believe, almost every other importer, ordered the goods shipped as soon as the Orders in Council should be removed. This event having taken place, and the shippers in England not knowing of war being declared by this Government, shipped them under the former orders they had received. I should have mentioned that the goods sold, as heretofore mentioned, by order of the Orphan's Court, were sold on a credit of six months, which time, added to that already elapsed since the money was paid, makes twenty-five months' interest due, or  $12\frac{1}{2}$  per cent.; from which, deduct the  $7\frac{1}{2}$  per cent. allowed for prompt payment, and 5 per cent. stands, of course, a proper item in the price of the goods, which would, on the money paid in England, amount to about \$720. From the foregoing, which is founded, not upon speculative suppositions, but upon facts, absolute in themselves, the documents of which can be exhibited, if necessary, it would

follow, that, if the Government exacted the bonds taken, Armour & Jenkins would lose \$10,935 03 $\frac{1}{2}$ ; this results from the following facts:

The amount of penal bond, per Tom Hazard, in Norfolk, is	\$12,807 88
The amount of penal bond, per brig Ann, in Baltimore	640 33
	<hr/> \$13,448 21
From this sum, deduct the net profits made, as per statement No. 3	- 2,513 17 $\frac{1}{2}$
Absolute loss of Armour & Jenkins	<hr/> \$10,935 03 $\frac{1}{2}$

I am aware that something may be said about the rate of exchange; on this head, I shall adopt the language of Mr. Russell on a late occasion. I have *nothing to disguise*. The advantage of bills, upon the whole of this transaction, has been about 14 per cent.; but *have we not, without any fault of ours*, been subjected to great trouble, anxiety, and alarm? Yes, more than any man in his senses would be willing to undergo for such an advantage.

Having, as I conceive, made a fair and honest statement of this business, I would ask, what will Government be likely to do? In coming to this determination, there will be but one object in view—this object is justice. You know me too well to suppose I would not be among the very first to step forward to punish any violation of the laws of our own Government; but it is surely a sound maxim to say, that, where there was no intention to transgress, there can be no crime; and where there has been no crime, I am quite sure, an honest Government like ours will never punish. You may ask how a discrimination can be made. To this I would say, that, if the collected wisdom of the United States cannot devise means to punish the guilty, without involving the innocent, let the whole escape. Adopt the common declaration of law—it is better for ninety-nine guilty persons to escape, than to punish one innocently. Having been thus lengthy, I shall conclude by giving you permission to make what use you please of this letter, and the accompanying documents. I remain, yours, very respectfully,

JOHN HILLEN.

*Adm'r estate of D. Armour.*

ALEXANDER McKIM, Esq.

Extract of a letter from William Walker & Co., dated Philadelphia, 13th March, 1811, to Messrs. Armour and Jenkins.

"GENTLEMEN: We have yours of the 11th; the last accounts we have from our friends in England, are of the 22d December, at which time they intended shipping all they could get on board by 2d February. They mention particularly, that the Baltimore orders, having been received early, were in a great state of forwardness, and would be ready for the first vessels. We have, therefore, no doubt, but the greatest part of your goods will be in the Diana."

## Government Sinking Fund.

## SINKING FUND.

[Communicated to the Senate, February 8, 1813.]

WASHINGTON, February 6, 1813.

The Commissioners of the Sinking Fund respectfully report to Congress as follows:

That the measures which have been authorized by the Board subsequent to their last report, of the 5th February, 1812, so far as the same have been completed, are fully detailed in the report of the Secretary of the Treasury to this Board, dated the 5th day of the present month, and in the statements therein referred to, which are herewith transmitted, and prayed to be received as part of this report.

W. H. CRAWFORD, *Pres. Sen., p. tem.*

J. MARSHALL, *Chief Justice, U. States.*

JAMES MONROE, *Secretary of State.*

ALBERT GALLATIN, *Sec'y Treas'y.*

TREASURY DEPARTMENT, Feb. 5, 1813.

The Secretary of the Treasury respectfully reports to the Commissioners of the Sinking Fund:

That the balance of moneys advanced on account of the public debt, remaining unexpended at the close of the year 1810, and applicable to payments falling due after that year; which balance, as appears by the statement B, annexed to the last annual report, amounted to - - - \$493,174 17

Together with the sums disbursed from the Treasury during the year 1811, on account of the principal and interest of the public debt; which sums, as appears by the statement C, annexed to last annual report, amounted to - 8,148,095 00

Together with a further sum arising from profit in exchange on remittances from America to Europe, purchased during the year 1811, amounting, as appears by the statement D, annexed to the last annual report, to - 56,726 14

And, with the further sum of £4,900 sterling, in bills taken in payment of the principal of an equal sum of protested bills, as appears by the same statement D, and equal, at par, to - 21,777 78

And amounting, together, to - \$8,719,773 09

Have been accounted for in the following manner:

I. There was repaid into the Treasury, during the year 1811, on account of the principal of moneys heretofore advanced for the payment of the public debt, including the amount of sundry bills of exchange received in lieu of others previously purchased, which had been protested, as appears by the statement E, annexed to the last annual report - \$168,444 45

II. The sums actually applied, during the same year, to the payment of the principal and interest of the public debt, as ascertained by accounts rendered to the Treasury Department, amounted, as will appear by the statement A, to eight millions forty-eight thousand eight hundred and fourteen dollars and seventy-nine cents, viz:

1. Paid in reimburse'm't of the principal of the public debt - -	\$5,543,606 39	
2. Paid on account of interest and charges on the same - -	2,505,208 40	
		8,048,814 79

III. The balance remaining unexpended at the close of the year 1811, and applicable to payments falling due after that year, as ascertained by accounts rendered to the Treasury Department, amounted, as will appear by the statement B, to - -	502,513 85
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Total - - - - -	\$8,719,773 09
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That, during the year 1812, the following disbursements were made out of the Treasury, on account of the principal and interest of the public debt, viz:

I. On account of the interest and reimbursement of domestic funded debt -	\$3,845,117 34
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II. On account of the domestic unfunded debt - - -	\$945 04
And of the debt due to foreign officers - - - -	1,444 17
	2,389 21

III. On account of the interest on Louisiana stock, and on converted stock, payable in Europe - - - -	627,051 64
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Amounting, together, as will appear by annexed list of warrants, marked C, to -	\$4,474,558 19
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Which disbursements were made out of the following funds, viz:

I. From the funds constituting the annual appropriation of eight millions dollars, for the year 1812, viz: From the fund arising from the interest on the debt transferred to the Commissioners of the Sinking Fund, per statement I - - - -	\$1,899,125 22
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From the fund arising from the sale of public lands, being the amount received into the Treasury, from the 1st October, 1811, to the 30th September, 1812, per statement K - -	822,599 64
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From the proceeds of duties on goods, wares, and merchandise, imported, and on the tonnage of vessels - -	1,727,906 03
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Amounting, together, to - -	\$4,449,630 89
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Which sum of \$4,449,630 89, being deducted from the annual appropriation of \$8,000,000, leaves an unexpended balance of \$3,550,369 11, to be applied during the year 1813, in addition to the appropriation for that year.

II. From repayments into the Treasury, on account of moneys heretofore advanced for the payment of dividends on the domestic funded and unfunded debt, as will appear by the statement E - - - -	24,927 30
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Making together - - - -	\$4,474,558 19
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*Increase of Public Revenue.*

That the above-mentioned disbursements, together with the above-stated balance, which remained unexpended at the close of the year 1811, of - -	502,513 85
And, together with a further sum, arising from profits on remittances from America to Europe, purchased during the year 1812, and amounting, as will appear by the statement D, to -	91,532 88
<b>Making together</b> - - -	<b>\$5,068,604 92</b>

Will be accounted for in the next annual report, in conformity with the accounts which shall then have been rendered to the Treasury Department.

That, in the meanwhile, the manner in which the said sum has been applied, is estimated as follows:

I. The payments into the Treasury, on account of the principal of moneys advanced for the payment of dividends on the domestic funded and unfunded debt, have during the year 1812 amounted, as by the above-mentioned statement E, to - - -	\$24,927 30
II. The sums actually applied, during the year 1812, to the principal and interest of the public debt, are estimated as follows:	
1. Paid in reimbursements of the interest of the public debt - - -	\$2,262,690 01
2. Paid on account of interest and charges on the public debt - - -	2,422,060 14
<b>As will appear by the estimate F.</b>	<b>\$4,684,750 15</b>

III. The balance which remained unexpended at the close of the year 1812, and applicable to payments falling due after that year, is estimated, per estimate G, at - - -	358,927 47
<b>Making together</b> - - -	<b>\$5,068,604 92</b>

That, in conformity with the resolution of the Commissioners of the Sinking Fund, of the 19th June, 1812—a copy whereof is hereunto annexed, marked M—the residue of the converted stock was reimbursed at the close of the year 1812; and, that, in conformity with the resolution of the said Commissioners, of the 6th July, 1812—a copy of which is annexed, marked N—\$179,300 of Louisiana domestic six per cent. stock, \$14,000 (nominal) of deferred six per cent. stock, and \$57,000 of six per cent. stock, of 1812, have been purchased previous to the 31st December, 1812, having cost, together, \$242,847 39, as will more particularly appear in the statement marked L.

And that the statement H exhibits the amount of stock transferred to the Commissioners of the Sinking Fund, and to the Treasurer of the United States, in trust for said States, and standing on the books of the Treasury on the 31st December, 1812; no stock having been transferred, in payment for lands, during the year 1812.

All which is respectfully submitted.

ALBERT GALLATIN.

## INCREASE OF REVENUE.

[Communicated to the House, February 15, 1813.]  
COMMITTEE ROOM, Feb. 11, 1813.

SIR: The Committee of Ways and Means are of opinion that it is expedient to raise an internal revenue for the service of the year 1814; but that it is altogether impracticable, within the present session, to pass the necessary laws for that purpose; they have, therefore, directed me to inquire of you, at what time, in your opinion, it will be necessary that such laws should be enacted, in order to raise a revenue, which may be collected in time for the service of that year.

I am also directed to bring to your attention the last paragraph of your letter to the Chairman of this Committee, of the 10th of June, 1812, and to ask whether the opinion therein given is applicable to the present state of things, and to the probable exigencies of the Government, in the year 1814?

As early an answer as shall be consistent with your convenience is requested.

I am, with great respect, &c.

LANGDON CHEVES.

HON. ALBERT GALLATIN, *Sec'y Treasury.*

TREASURY DEPARTMENT, Feb. 12, 1813.

SIR: In answer to your letter of yesterday, I have the honor to state that I still believe it practicable to organize the taxes within three or four months after the passing of the laws in the shape reported. This, however, is only matter of opinion, in which I may be mistaken; and it would certainly be desirable, if other considerations do not oppose it, to prevent the danger of disappointment, by allowing more time for the selection of officers, preparing and transmitting the forms and instructions, and taking all other steps necessary for the organization of a difficult and novel system, which must pervade every part of the extensive territory of the United States. The selection of officers, including the time necessary to ascertain whether they will accept, is perhaps the operation most likely to produce delay.

I have the honor to be, respectfully, &c.

ALBERT GALLATIN.

HON. LANGDON CHEVES, *Chairman, &c.*

COMMITTEE ROOM, June 9, 1812.

SIR: I am directed, by the Committee of Ways and Means, to request you to inform them, whether, in your opinion, the non-importation act may not be so modified, or partially suspended, as to afford a revenue equivalent to the estimated amount of the proposed internal taxes, additional tonnage duty, and diminution of drawbacks; and, in such event, whether the last mentioned objects of revenue may not, for the present, be dispensed with.

I am, sir, with great respect, &c.

LANGDON CHEVES.

HON. ALBERT GALLATIN, *Sec'y Treasury.*

*Fines, Penalties, and Forfeitures.*

TREASURY DEPARTMENT, June 10, 1812.

SIR: I had the honor to receive your letter of yesterday, asking whether, in my opinion, the non-importation act may not be so modified, or partially suspended, as to afford a revenue equivalent to the estimated amount of the internal taxes, additional tonnage duty, and diminution of drawbacks; and, in such event, whether the last mentioned objects of revenue may not, for the present, be dispensed with?

All the estimates of revenue, which have been transmitted during this session, having necessarily been made in conformity with the existing laws, were predicated on the supposed absolute prohibition of British produce and manufactures. These, in ordinary times, amounted to more than one-half of the foreign merchandise consumed in the United States. The actual exclusion of the greater part of the articles of our own growth from France, Holland, and Germany, the consequent nullity of our commerce with those countries, and the conquest by Great Britain of their colonies, still more lessens the proportion of foreign articles which may be imported from other countries than the British dominions.

It is, therefore, evident, that the amount of duties on importations will be more than doubled in the event of a suspension of the non-importation, and that they will, whilst that suspension continues, afford a revenue, at least equivalent to the estimated amount of the proposed direct tax, internal duties, additional tonnage, and diminution of drawbacks. All these may be dispensed with, so long as the suspension continues, provided that the contemplated increase of one hundred per cent. on the duties on importations shall take place.

It is not believed that the result would be materially affected by a modification, or partially, instead of an absolute, suspension of the non-importation: for the amount of importations would be principally regulated by the amount of American funds already in England, and by the subsequent consumption of American produce in Great Britain, Spain, and Portugal, and the British West Indies, respectively. If a discrimination be thought eligible, it would seem that the articles entitled to preference are colonial produce, particularly rum, coarse woollens, middle price cotton goods, Irish linens, earthen and glassware, hardware and manufactures of steel, tin, brass, and copper, fine cloths, muslins, plain cotton goods, manufactures of silk, hemp, flax, (with the above exception) and leather, paper, hats, shoes, and millinery, may either be altogether supplied by domestic manufactures or dispensed with.

The annual importations of British colonial and domestic produce and manufactures could not be estimated at less than thirty-five millions of dollars. Supposing (on the same grounds on which the other estimates of duties on importation in time of war were made) that the war and other restrictions should reduce the amount to one-half, the proposed double duties collected on the revenue would produce a net revenue of at

least five millions of dollars, and greater, therefore, than all the proposed internal taxes and duties and additional tonnage duty.

Permit me, however, to observe, with respect to this last duty, that, so far as relates to foreign vessels, the proposed addition appears necessary, and is hardly sufficient to compensate the great advantages which war will give them over American vessels, in the American commerce.

It is proper to add, that all the bills for laying and collecting the direct tax and internal duties have been prepared in conformity with the former request of the Committee, so that the whole subject may be taken up at this, or any other time, without any delay on the part of the Treasury. The only detail on which the information is not as complete as might be desired, is that of the quotas of the direct tax intended to be laid on the several counties in each State. It is also believed that the system has been prepared in such manner that it may be organized, and all the taxes be in full operation, in the month of April next, provided the laws are enacted before the commencement of the year 1813.

I have the honor to be, &c.

ALBERT GALLATIN.

Hon. LANGDON CHEVES, *Chairman*, &c.

## FINES, PENALTIES, AND FORFEITURES.

[Communicated to the House, February 27, 1813.]

Mr. QUINCY made the following report:

The Committee appointed to inquire into the principles and practice adopted by the Treasury Department in relation to the revenue laws, and to the mitigating or remitting the fines, penalties, and forfeitures, accruing under the same, having, in pursuance of that appointment, had an interview with the Secretary of the Treasury, and examined such papers as they deemed necessary for the due execution of their trust, addressed to him a letter, marked A, and received from him, in reply, the letter marked B, with the accompanying document. All which are annexed to this report.

It appears to your committee, as far as they are enabled to judge, that the remitting and mitigating powers, exercised by the Treasury Department, have been used in a manner liberal and just. Your Committee have not deemed it their duty, from the terms of their authority, to enter into the consideration of the expediency of relieving the Treasury Department from the burden of exercising this discretion. In some commercial communities, a similar discretion is vested in a board of commissioners, whose members form a check upon each other, and the publicity of whose proceedings preserve their decisions, under the scrutiny of the public eye, and the wholesome control of public opinion.

Your Committee report to the House the annexed papers, as the result of their inquiry.

*Fines, Penalties, and Forfeitures.*

## A.

## HOUSE OF REPRESENTATIVES,

*January, 22, 1813.*

SIR: The Committee appointed to inquire into the principles and practice adopted by the Treasury Department in relation to the revenue laws, and to the mitigating or remitting the fines, penalties, and forfeitures, accruing under the same, have directed me to request such an elucidation of the general construction given by that Department, of its powers in relation to that subject, as may indicate the principles by which it has been regulated. They particularly have authorized me to desire an answer to the following inquiries:

Whether, in cases of "intention of fraud" existing, the Department deems itself authorized either to remit, or mitigate?

Whether, in cases of "wilful negligence" existing, the Department deems itself authorized either to remit, or mitigate?

Whether, in cases where neither one nor the other exists, the Department deems itself at liberty to inflict the whole penalty, or any part of it?

If the Department has deemed itself at liberty, in cases where no "wilful negligence" and no "fraud" has existed, to inflict the whole penalty, or forfeitures, or any part of either, then the Committee have directed me to inquire by what general principles its decision, in such cases, has been regulated?

Particularly, whether the Department has deemed itself confined, in relation to such cases, to such a mitigation of the penalty, or forfeiture, as might include the mere incidents of the prosecution, and the "terms and conditions" on which, having reference to such incidents, it should be made to cease; or, whether, in relation to such cases, it has deemed itself at liberty to take into consideration other circumstances, such as the profits of the Treasury, the gains of the individual, the like or other considerations, in estimating the amount of the penalty or forfeiture to be exacted.

The Committee having perceived that, in certain cases, where "wilful negligence and fraud" were stated not to exist, the condition of release has been on the payment of "costs and charges, and a certain per centage, for the use of the United States, in addition to the duty established by law," they have directed me to inquire by what principles this levy has been regulated? To what cases it has been applied? And what has been the gain to the United States by such payments of per centage.

The Committee also requests a general statement of the fines, penalties, and forfeitures, received by the Treasury Department since the date of the establishment, and the expenses which have occurred on prosecutions for them.

The Committee will be happy to receive any elucidation which the above inquiries, or any other considerations connected with the subject, may suggest. I am, sir, respectfully, &c.

JOSIAH QUINCY.

HON. ALBERT GALLATIN.

## B.

TREASURY DEPARTMENT, *Feb. 12, 1812.*

SIR: The pressure of current business has prevented an earlier answer to your letter of 22d ultimo. The tenor of some of the queries therein contained, renders it necessary to premise some observations on the object and obvious construction of the law, which authorizes remissions or mitigations of fines, penalties, and forfeitures.

In almost every penal code, the law fixes the maximum of the fine which may be inflicted for offences made punishable by the payment of money, and leaves it discretionary with the court to prescribe, in every case, according to its circumstances, the sum, not exceeding that maximum, which shall be paid by the offender. In the revenue and restrictive laws of the United States, the fines, or forfeitures, which may be incurred by reason of any infraction of those laws, are made absolute; and the power to mitigate, and even to remit the whole amount, has, it is presumed, for the sake of uniformity, been vested, under certain limitations, in the Secretary of the Treasury. It is enacted that he shall have power "to mitigate or remit such fine, forfeiture, or penalty, (or remove such disability,) or any part thereof, if, in his opinion, the same shall have been incurred without wilful negligence, or any intention of fraud in the person or persons incurring the same; and to direct the prosecution, if any shall have been instituted for the recovery thereof, to cease and be discontinued, upon such terms and conditions as he may deem reasonable and just."

Since the Secretary of the Treasury is not authorized to remit, or even to mitigate, unless there has been neither intention of fraud, nor wilful negligence, it necessarily follows, that, by the words, *wilful negligence*, is meant only such flagrant and voluntary infraction of the laws as, though not implying fraud, properly so called, is, by the statute, considered as tantamount to fraud, and therefore precluding any remission, or even mitigation of the penalty incurred.

Since the power to remit in part, or to mitigate, which is precisely the same as a power to enforce a part of the penalty, not only may be exercised in cases which fall short, in the words of the statute, of intention of fraud, or of wilful negligence, but is limited to such cases alone; it necessarily follows that the statute contemplates offences implying a certain degree of guilt, and requiring a punishment less than the whole amount of the penalty incurred, although there has been, in persons incurring such penalty, neither intention of fraud, nor what is there called wilful negligence.

It is evident, from the tenor of the statute, that it describes two classes of offences: 1st, such as imply fraud, or (to use the expression) *statute* wilful negligence, and which shall be punished by the infliction of the whole amount of the fine, penalty, or forfeiture incurred; 2dly, such as imply neither fraud or *statute* wilful negligence, to which alone the power to remit, or to mitigate, can be applied.



*Fines, Penalties, and Forfeitures.*

That the last class embraces two species of infractions: such as, falling short of the highest degree of offence, which precludes even a mitigation, must, however, render the party liable to a partial payment of the penalty incurred; 2dly, such as, from involuntary and unimportant omissions, have made the party legally liable to the penalty, but where such penalty should, in equity, and may, without weakening the execution of the laws, be altogether remitted; and that the authority vested in the Secretary of the Treasury is applicable only to that class of offences, which imply neither fraud nor *statute* wilful negligence, and consists in graduating the amount of penalty which it may still be proper and necessary to enforce, or in granting an unqualified remission, according to the nature of the case.

This exposition of the law affords a ready answer to the general queries proposed by the committee, and was thought necessary, because it was apprehended that some erroneous view of the subject and meaning of the law might result, from not particularly attending to the restricted sense affixed to the words "*wilful negligence*," by the statute.

It was apprehended that, on a first impression, the position may have been assumed, either, that the power to enforce a part only of the penalty did not exist, although that power be expressly implied in that of mitigating, and remitting in part, or that it could be exercised in cases where there was neither fraud, or *statute* wilful negligence, although this authority be, by the statute, expressly confined to such cases alone.

To the three first queries of the committee, it is, therefore, answered:

1. That the Secretary of the Treasury does not consider himself authorized, either to remit or to mitigate, in cases where, in his opinion, there has been neither intention of fraud, or (*statute*) wilful negligence.

2. That he does not consider himself authorized to inflict the whole penalty, in cases where, in his opinion, there has been neither intention of fraud, or (*statute*) wilful negligence.

3. That he does consider himself authorized, when, in his opinion, necessary and proper, to enforce a part of the penalty in some, and require the payment of costs in all cases where, in his opinion, there has been neither intention of fraud, or (*statute*) wilful negligence.

The fourth query of the committee is to the following effect:

By what general principles has the decision of the Treasury been regulated in cases where, there being no fraud or (*statute*) wilful negligence, a part of the penalty or forfeiture has nevertheless been enforced? "Particularly: Whether the Department has deemed itself confined, in such cases, to such a mitigation of the penalty, or forfeiture, as might include the mere incidents of the prosecution, and the 'terms and conditions' on which, having reference to such incidents, it should be made to cease; or, whether, in relation to such cases, it has deemed itself at liberty to take into consideration other circumstances, such

as the profits of the Treasury, the gains of the individual the like or other considerations, in estimating the amount of the penalty, or forfeiture, to be exacted."

From what has already been stated, it follows, that, if, by "incidents of prosecution," and terms and conditions connected therewith, the payment of costs only be meant, the Treasury (with the exception of a few cases of great hardship) has required such payment in all cases of remission or mitigation, and has not deemed itself confined to such payment in those cases where it appeared necessary and proper to enforce a part of the penalty or forfeiture. The statute grants, in that respect, two distinct powers—that of prescribing the terms and conditions on which prosecutions shall be discontinued: which, of course, embraces the payment of costs and other incidents of prosecution, and that of mitigating or remitting, only in part, the penalty. Which last authority would be nugatory, and would not therefore have been given, had the law intended to confine the effect of that authority to the costs, or other similar incidents of prosecution; these being embraced by another part of the enacting clause.

In deciding on those cases to which the power of remitting, in whole or in part, does apply, and in graduating the amount of penalty enforced, in those where it appeared improper to grant an unqualified remission, the Treasury has been invariably governed by three principles:

1st. Enforcing laws. 2dly. Reducing the penalty to that amount, and requiring only that portion which appeared sufficient for the purpose of preventing infractions. 3dly. Uniform rules of decision, so far as the diversity of cases rendered them practicable. In the application of those principles to individual cases, several circumstances have naturally been taken into consideration, such as the degree of negligence manifested by the party; the importance, for the safety of the revenue, of the particular provision which had been infringed; the encouragement due to the vigilance of the officers; and, when necessary, for the purpose of checking illegal importations, the profit derived from the transaction.

The gain of the Treasury never had any influence on any decision, or has even been thought of. The portion of a mitigated penalty sometimes happens to be paid into the Treasury, because the law had made one-half payable there, if not mitigated. The decisions of the Treasury never can add anything to the amount actually forfeited, and otherwise legally payable; and whenever a mitigation takes place, it operates as a deduction from such payment. If it ever should be attempted to draw a revenue from forfeitures and penalties, it will be done by giving to the statute a construction precisely the reverse of that now adopted. Instead of restricting the words "*wilful negligence*" to flagrant infractions, tantamount to fraud, as is now done, in conformity with the obvious meaning of the statute, let those expressions receive that construction of which, in common parlance, they are susceptible; let every negligence, however unimportant, provided it be

*Fines, Penalties, and Forfeitures.*

accompanied with an act of the will, be called "wilful negligence," and every penalty which has been mitigated, together with many of those which have been remitted in full, will fall in the class of those on which no remission can be granted. With that construction, instead of the trifling amount which has been paid into the Treasury for the share of the United States, in mitigated penalties, which have been enforced in part, not less, probably, than two millions of dollars, remitted by those decisions, would have been legally exacted. The exposition of the law, and the preceding arguments, have been adduced only in proof of the correctness of the principles which have been adopted in mitigating penalties: for, in point of fact, the portion which has been paid on that account, in the Treasury, is so inconsiderable, that, if known, it never could have been supposed that what is called the gain of the Treasury had the smallest effect on the decisions.

The whole number of decisions, since the present Secretary of the Treasury has filled that office, viz: from the 14th of May, 1801, to the 14th of December, 1812, amounts to 1,297. In ninety-two of these cases, there being, in the opinion of the Treasury, intent of fraud, or (*statute*) wilful negligence, no remission could be granted. Of the 1,205 other cases, to which the power of remitting in whole, or in part, applied, there have been 888 in which an absolute remission has been granted, generally on payment of costs; and 317 have been mitigated. In about two-thirds of these, nothing more has been inflicted than the payment of sums, generally inconsiderable, to the use of the custom-house officers. Of the residue, there are 27, consisting of three embargo cases, and of 24 cases of illegal importations, principally from Amelia Island, or in vessels at sea when war was declared, in which the decision has been, that, from the net proceeds of sales, the costs, and (in the cases of importation) the duties in force when the decisions took place, should be deducted; that the residue, if not exceeding the prime cost, freight, insurance, and other charges, should be paid to the claimants, and that the surplus, if any, should be distributed in the same manner as the whole forfeiture, if enforced, would have been. In one of those cases, one hundred and fifty dollars have been paid into the Treasury. It is ascertained that, in many of them, there is no surplus; and the same result is anticipated in most others. In 67 other cases, hereafter stated, in answer to the last query of the committee, the whole amount paid into the Treasury falls short of four thousand dollars. There may be eight or ten more cases of mitigations, in which some payments have been, or may be, made into the Treasury, and which, not being sufficiently designated in the register of decisions, could not be ascertained without a critical examination of all the original papers. The amount of penalties and forfeitures actually paid into the Treasury, and which is hereafter stated, arises, almost exclusively, from cases of fraudulent infractions of the laws, on

which no remission whatever could take place, and, in most of which, no application has, of course, been made to the Treasury.

The last query of the committee relates to the principles and amount of mitigations where a certain per centage has, in addition to the duties established by law, been required for the use of the United States.

In cases where a fine is mitigated, it is always done by fixing a sum of money less than the fine. When a forfeiture is mitigated, it is more consistent with the spirit of the law that the reduced payment which is required should still be in proportion to the value of the whole forfeiture incurred. This principle has been adopted in those cases designated as having been mitigated, by requiring the payment of a per centage. All those which have been ascertained amount to sixty-seven, as already stated, and consist of two classes.

1. The first partial non-importation act took effect on the first day of July, 1808. The following rules were adopted with respect to subsequent importations, not fraudulent, and susceptible of remission or mitigation. An absolute remission was granted on all importations in vessels which had sailed from a British port, prior to the 1st of June, 1808, on the ground that there was a possibility of their arrival prior to the time when the law took effect. The forfeiture was mitigated in the subsequent cases, and no greater portion required than what appeared absolutely necessary to prevent continual infractions. For that purpose the forfeiture was reduced to the payment of a sum equal to double the amount of the legal duties, to be divided as the forfeiture itself, if enforced, would have been. But that sum was levied only on the articles actually prohibited, and not on those otherwise admissible, and belonging to the same owners, though they were also forfeited by the law. There were thirty-seven cases of this description. It has been ascertained that the sum paid in the Treasury on thirty of them, amounts to \$1,646 44. The sum paid on the seven other cases is blended in the collector's accounts, with the ordinary duties, but, from the value of the merchandise, is estimated to have been less than nine hundred and sixty dollars. The forfeitures remitted by those same decisions are believed to have exceeded half a million of dollars in value.

2. The importation of spirits, porter, and refined sugar, is prohibited in vessels or casks, of a size less than is prescribed by law. In the first decisions made on those cases, the condition of the remission was, that the articles imported contrary to law should be re-exported, without giving any other option to the owners. The only exception, while that rule prevailed, is Gillespie's case, where the spirits had been sold by order of court, prior to the application for a remission being made. The condition of paying one-fourth part of the proceeds was substituted to that of re-exportation, which had become impracticable. The share of the United States, contrary to what was intended, did not, in that case, cover the legal duties. It being, from experience, ascer-

*Complaints of the Owners of Privateers.*

tained that the condition of an absolute re-exportation was sometimes impracticable, and in most cases, more severe than was required for the purpose of preventing infractions of the law, an alternative was added to that condition, by leaving it optional with the claimants, if they did not re-export, to pay a certain sum which, after some variations, was fixed at the rate of five cents per gallon of spirits, for the use of the United States, in addition to the legal duties. But, in all the cases, two only excepted, where the admission arose from inadvertence in filing the decisions, the condition of the re-exportation has always been preserved, and the payment aforesaid imposed only in case of not complying with that condition. The cases of this description, in which any money may have been paid in the Treasury, amount to thirty. The actual payments being blended with the accounts of duties, cannot be ascertained. But the amount of spirits, porter, and sugar, embraced by those cases, have been ascertained from the applications for remission; and it appears that, if no part has been re-exported, and if, in every instance, the parties have preferred to pay the sum to which the forfeiture was reduced, the whole amount paid in the Treasury cannot have exceeded \$1,400, and may, therefore, have been less.

A general statement of all the fines, penalties, and forfeitures, paid by the collectors into the Treasury, from the 1st of January, 1794, to the 31st of December, 1811, and amounting to \$253,508 05, is enclosed. The expenses of prosecution in those cases, as paid by the marshals, cannot be discriminated from the general expenses paid generally for jurors, witnesses, and all other expenses incident to the prosecutions of every species of offences against the United States, including the safe-keeping of prisoners. The aggregate of all these amounts for the same period, as appears by the annexed statement, to \$857,206 69. There can be no doubt that the portion expended in prosecuting for the offences against the revenue and restrictive laws under which the abovementioned fines, penalties, and forfeitures, have been incurred and paid, considerably exceeds the amount actually recovered and paid in the Treasury; and that those penalties have never been a source of revenue, nor been sufficient to defray the expenses of prosecution: for which object they are exclusively appropriated by law. I have the honor, &c.

ALBERT GALLATIN.

HON. JOSIAH QUINCY, *Chairman.*

#### OWNERS OF PRIVATEERS.

[Communicated to the House, November 23, 1812.]

*To the honorable the Senate and House of Representatives of the United States in Congress assembled, the memorial of the undersigned, of the city of Baltimore, merchants and owners of private armed commissioned vessels of war, respectfully represents:*

That your memorialists have, since the declaration of war, at a heavy charge and cost, pur-

chased, equipped, and fitted for offensive operations, numerous strong and well appointed cruisers, which have done the public enemy immense injury, by the capture of many of her merchant vessels laden with valuable cargoes, and the destruction of at least ten thousand tons of her shipping; that the cruisers of your memorialists have captured and made prisoners of war seven hundred of the seamen of the enemy, who have been exchanged for an equal number of American prisoners, who have thus, through the instrumentality and at the charge of your memorialists, been rescued from captivity; that, trusting to what they deemed the fair construction of the 14th section of the act "concerning letters of marque, prizes, and prize goods," and, supposing from the general and comprehensive expressions of the commissions which had been granted to them by the President of the United States, that enemy's property, whether taken bound to the United States or elsewhere, on the high seas, or within our own waters, was lawful prize, your memorialists were greatly induced by this confidence to make larger and more immediate outfits, calculating upon the known course of trade between this country and Great Britain, in which it has been so usual to cover British interests in American names, and knowing that it would be in their power, when armed with the authority of a national commission, to detect and bring to light the belligerent interest; that, in many instances, your memorialists have succeeded in capturing and bringing in for adjudication property so circumstanced, that they had proceeded against it as prize of war, and a general sentiment appeared to prevail among those experienced in the law that, under the fair construction of the prize act, and according to the manifest intention of the Legislature, the captors having incurred the expense of the outfit, having encountered the peril of capture, and having detected the enemy interest, which must otherwise have remained concealed, were entitled, in law, as well as in point of justice, to the benefit of the capture; that, after proceedings had been instituted at their instance, and at a heavy expense, against such property in different districts, your memorialists, who never anticipated any interference on the part of the Government of the United States with their just claims, on the ground of an act of Congress pre-existing the declaration of war, and whose operation they believed to be suspended, as related to prize goods, by the 14th section of the prize act above referred to, now find themselves called upon to defend their rights as well against the pretensions of the Treasury Department as against the shufflings, evasions, and legal subterfuges of fictitious claimants, anxious to screen, because having a common interest in the property of the belligerent. Your memorialists are persuaded that it could not have been the intention of the Legislature to appropriate the proceeds of individual enterprise, exertion, and hazard against the enemy to the exclusive advantage of the public Treasury; and that, if such can, by any possibility, be the

*Complaints of the Owners of Privateers.*

legal exposition of their acts, it must have been a mere legislative omission, of which your memorialists confidently hope the injurious consequences will be prevented by an explanatory law.

Your memorialists would further beg leave to submit to the wisdom of Congress the propriety of diminishing, on behalf of the captors, the very heavy duties imposed upon prize goods. They do not require an indiscriminate abatement of duty upon all prize goods, but they would humbly represent that, on various articles, principally intended for exportation, and not consumed within the country, the impost equals, and, on some, exceeds their value in the market; so that it may happen that the captor, instead of being benefited, may have incurred his risk and expense in some instances, without any profit from, and in others at a positive loss by, his prize. Your memorialists would suggest that it is not in consonance to the just principles of revenue that the Government, under the pretence of duty, should take the whole proceeds of the exertions and hazards of the captor, but that there should, in all cases, be a just proportion between the value of the article captured and the claim of the Government thereon, by way of impost. In such cases, therefore, your memorialists would humbly pray a diminution of duty, or that, with respect to prize goods, a fair ratio be established, by law, between the value in market and the impost on the article.

Your memorialists would respectfully call the attention of the Legislature to the embarrassments, difficulties, and delays which they labor under in the determination of prize causes in the different courts of the United States, under the present very imperfect system, even in cases where the enemy interest is incontestably shown, where no claim is interposed, and where, therefore, the proceedings ought to be conducted with the expedition characteristic of Courts of Admiralty. In several such instances a procrastination of many months has taken place, to the extreme injury of the captors, without any reasonable cause of delay, and the hardy seaman who hazarded his life in the public cause, finds himself at last obliged, by necessity, to sacrifice, for a trifle, his share in the just compensation of his perils, to which, as the right is certain, so the remedy ought to be immediate.

While there are numerous acts of Parliament in Great Britain, prescribing to the Courts of Admiralty the mode of proceeding, and insuring to captors a safe and speedy ascertainment of their rights, whereby the private armed service is much encouraged, your memorialists, and others in the like circumstances in the United States, are exposed to the inconvenience of this matter being left entirely open to the discretion of the judges, with the exception of a few words in the prize act. In consequence of which omission, every court has, according to the several impressions of its judges, adopted a mode of proceeding peculiar to itself; and while in one district the remedy of the captor is speedy, in others the determination for a considerable time is suspended, to the great vexation and injury of the

interested. That courts belonging to the same country, and exercising, in different districts, precisely the same jurisdiction and power, should be bound by some rules common to them all, in matters of prize, and that the rights of the citizen should not be different before tribunals similarly organized, according to the district in which such rights are to be exercised, would appear to be positions too plain for argument; but that, from the want of the necessary provisions, the rights of war speedily administered in one district, should, in another, be subject to the most vexatious delays, appears to be an evil of such magnitude that your memorialists are persuaded that it is only necessary to show its existence to Congress to secure its prompt legislative redress.

Your memorialists would further submit to Congress some considerations which, although of minor importance, in a national point of view, are of serious moment to them, as owners of private armed vessels of war. Great inconveniences are experienced by them in consequence of that provision of the prize act which renders it incumbent on the captors to proceed against the prize in the first district to which such prize may be brought—a provision which appears to your memorialists to operate exclusively to the benefit of the officers of the customs and of the courts, who claim the possession and benefit of prizes taking refuge in port, as their rights—a provision which, in many instances, may expose the prize to re-capture by the enemy, which deprives the privateer owners of all control over that in which they are the most interested, subjects them to the loss of a bad market, and compels them to submit to a distant and expensive agency, and to frequent detriment from carelessness and mismanagement, which would not have been incurred, if the prize could have been lawfully taken from the district where she first casually arrived, to the district in which the captor resides, and to which the capturing vessel belongs. As to any substantial object of justice, they can discover none which is so gratified by the provision in question, as to render a compliance with the interests and wishes of the captor, in this particular, inexpedient; the question in controversy can be as justly decided in one district as another, in which respect no preference can be presumed in law, and none can be justly given; and the inconvenience from the present arrangement is so sensibly felt, that it will frequently happen that prizes will incur the risk of re-capture, from a longer voyage, rather than put into a near American port, at which the rights of the officers of the customs and of the court may compel her to remain, although it may be to the interest of all concerned that she should proceed to another port. Your memorialists, therefore, pray that captors be permitted, by law, to take their prizes from one port of the United States to another, under such precautions and limitations as to the wisdom of Congress may appear expedient.

Your memorialists would further submit to the consideration of Congress the propriety of a

*Re-Organization of the Navy Department, &c.*

legal provision that the agents of the captors should, in cases where the prize is sold on a credit, be entitled to receive the notes or other securities which have been received upon such sales by the respective marshals of districts, previously securing to the officers their fees and commissions; such a provision, enabling the person specially appointed by the captors to receive the proceeds, would put it in his power in most instances to pay off the officers and seamen before the terms of credit expired, and thus prevent the inconvenience and loss arising from the delay. And as the agents of the owners are in general the agents of the officers and crew, there can be no just exception to the law at once intrusting them with the possession of those funds which must finally come into their hands, through the medium of the clerks of the courts. Your memorialists would likewise suggest that the marshal's commission on the sale of prize goods, which is charged upon the gross amount of sales, is peculiarly burdensome to the captor, in all cases where the United States receive the greater part of the proceeds by way of duties, as such commissions come entirely out of the pocket of the captors, and not unfrequently amount to five or six per centum on the sum which they are entitled to receive, after the deduction of duties. Your memorialists conceive that in justice they should only be chargeable with marshal's commission on the sum by them actually received.

Wherefore your memorialists pray that Congress, taking into consideration the various grievances of which they have herein complained, will pass a law or laws giving them such relief in the premises as to the justice and the fair demands of your memorialists may be due.

Robert Patterson,	John Snyder,
Jeremiah Sullivan,	P. A. Karthaus,
C. Deshon,	Thomas Sheppard,
Thomas Tenant,	James Ramsey,
Lemuel Taylor,	Thomas Hutchins, Jr.
A. Clopper,	Wm. F. Graham,
Thorndick Chase,	Charles Gwinn, & Co.
J. W. Patterson,	Christian Keller,
William Price,	Francis Forman,
William Hollins,	Briscoe & Partridge,
Ch. F. Kalkman,	George Stiles,
F. & A. Schwartz,	John Diffenderffer,
John M'Kim, Jr.	John W. Glenn,
Hollins & M'Blair,	Charles Diffenderffer,
Archd. Kerr,	Jacob Boyer.

# RE-ORGANIZATION OF THE NAVY DEPARTMENT, &c.

[Communicated to the House, February 6, 1813.]

NAVY DEPARTMENT, Feb. 2, 1813.

SIR: Permit me to revive the suggestions I had the honor to make to you in conversation relative to the better organization of the Navy Department; and though it would be premature in me to offer any general system of improvement, yet, in my view, there are some prominent

defects in the establishment, which are susceptible of a simple remedy, similar to that of which necessity urged the adoption in relation to the War Department.

The vital error appears to me to consist in loading the Chief of the Department with the cognizance of details, and with the execution of duties which divert his attention from the sound direction of the great and efficient objects of the establishment; or the inevitable alternative is to submit the execution of those duties to subordinate agents, whose responsibility does not afford a sufficient guarantee to the public for the judicious and faithful discharge of the trust. Of this nature is the duty of forming contracts, making purchases, and the effective control and accountability of navy agents, now spread over the interior as well as the Atlantic coast, and which I conceive would employ to great public advantage a distinct department, directed by a responsible and able head. If, in the present state of our Navy, this view of the subject is in any degree correct, the increase, as now provided for by law, must render it indispensable.

I would therefore respectfully suggest the idea of a Naval Purveyor's department, with deputies, as many as may be necessary, to be nominated by the President to the Senate. The Purveyor to reside in some of our central seaport towns, where the state of the market, and the information necessary to form contracts to advantage, can be best known, and effected with the best security; the Secretary of the Navy retaining the control and general direction of all important contracts to be formed by the Purveyor.

Permit me also to ask of you to consider the propriety of increasing the appropriation for clerks in the Navy Department, so as to admit of the addition of two able clerks to the number now employed. I would also suggest the propriety of providing for the appointment of an additional number of captains, in anticipation of those authorized by the act for building the seventy-fours. There is not now a single vacancy; and, unless a captain is taken from one of the navy yards, there is no commander for the Macedonian, although a distinguished master commandant has been designated for that promotion and command; indeed, we have none to provide for casualties, or the fate of battle.

I would also draw your attention to a species of force of vast importance for short coasting convoys, as well as for the annoyance of the enemy. I mean corvettes, such as the Hornet, or rather larger, (such as the enemy employ.) Of this valuable class of vessels we are almost destitute. I think six vessels of this class would be desirable; they can be built by contract on favorable terms, and in service in four months. Orders have been given to construct and equip two corvettes at Erie, and one at Sackett's Harbor, with a view to the complete command of the whole of the lakes. I think, sir, the public could be amply remunerated for the additional six corvettes, by a reduction of the number of gunboats now in service, and the officers and

*Refusal to furnish Militia.*

crews of those that may be retained, in situations admitting of such diminution. I have, &c.

WILLIAM JONES.

Hon. BURWELL BASSETT.

NAVY DEPARTMENT, Feb. 3, 1813.

SIR: With reference to the note I had the honor to address to you on the — instant, permit me to add that the authority to increase the number of captains is equally applicable to the circumstances of the Adams frigate, intended for Captain Morris, who is not yet appointed, and for whom there is no vacancy.

I also pray your attention to a subject which menaces the service with serious inconvenience. Offences committed on board privateers are to be tried by naval courts martial; two have been called for and ordered since I have been in office. It is at all times inconvenient and expensive to institute these tribunals, and, in many cases, may be impracticable; meanwhile, the accused may be suffering the rigors of an unjust imprisonment, and the frequency of offences or charges may create very serious evils. Indeed, a case has already occurred, in which an individual has suffered several months' close confinement, waiting trial. Cannot some other tribunal be substituted?

I am, sir, your obedient servant,

WILLIAM JONES.

NAVY DEPARTMENT, Feb. 4, 1813.

SIR: Upon more mature reflection and investigation, I am induced to believe that it will for this session be best to postpone the creation of the Purveyor's office, lest it should militate with some of the arrangements necessary to be made at an early period; and during the recess, I shall have an opportunity of testing the utility of the plan, as well as of suggesting some improvements of the system. All that will be necessary at present, will be to provide for two additional clerks in this Department, and I believe they are really necessary. I would propose to embrace in the appropriation for building and equipping the sloops of war, the whole number which may be necessary both on the lakes and the sea, by a section authorizing the building — sloops of war, (say ten of the largest class,) and a section appropriating, for the building and equipping the said sloops of war, including \$200,000 for expenses incurred in the purchase and building of vessels on the lakes, — dollars.

I am, respectfully, sir, your obedient servant,

WILLIAM JONES.

Hon. B. BASSETT, *Chairman, &c.*

# REFUSAL TO FURNISH MILITIA.

[Communicated to Congress, November 6, 1812.]

To the Senate and House of  
Representatives of the United States:

I transmit to Congress copies of the correspondence between the Department of War and the

Governors of Massachusetts and Connecticut, referred to in my Message of the fourth instant.

JAMES MADISON.

NOVEMBER 6, 1812.

[Circular.]

WAR DEPARTMENT, April 15, 1812.

SIR: I am instructed by the President of the United States to call upon the Executives of the several States to take effectual measures to organize, arm, and equip according to law, and hold in readiness to march at a moment's warning, their respective proportions of one hundred thousand militia, officers included, by virtue of an act of Congress, passed the 10th instant, entitled "An act to authorize a detachment from the militia of the United States."

This, therefore, is to require your Excellency to take effectual measures for having ten thousand of the militia of Massachusetts (being her quota) detached, and duly organized in companies, battalions, regiments, brigades, and divisions, within the shortest period that circumstances will permit, and, as nearly as possible, in the following proportions of artillery, cavalry, and infantry, viz: One-twentieth part of artillery, one-twentieth part of cavalry, and the residue infantry. There will, however, be no objection, on the part of the President of the United States, to the admission of a proportion of riflemen, duly organized in distinct corps, and not exceeding one-tenth part of the whole quota of the States, respectively. Each corps should be properly armed and equipped for actual service.

When the detachment and organization shall have been effected, the respective corps will be exercised under the officers set over them, but will not remain embodied, or be considered as in actual service, until, by subsequent orders, they shall be directed to take the field.

Your Excellency will please to direct that correct muster rolls and inspection returns be made of the several corps, and that copies thereof be transmitted to this Department, as early as possible.

I have the honor to be, &c.,

W. EUSTIS.

His Excellency the  
GOVERNOR of Massachusetts.

[A similar letter was addressed to the Governors of Connecticut, Rhode Island, and New Hampshire.]

WAR DEPARTMENT, June 12, 1812.

SIR: I am directed by the President to request your Excellency to order into the service of the United States, on the requisition of Major General Dearborn, such part of the quota of militia from the State of Massachusetts, detached conformably to the act of April 10th, 1812, as he may deem necessary for the defence of the seacoast.

I have the honor to be, &c.

W. EUSTIS.

His Excellency CALEB STRONG,  
Governor of Massachusetts.

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HEAD QUARTERS, BOSTON, June 22, 1812.

SIR: I have received instructions from the President of the United States to call on your Excellency for such part of the quota of militia from the State of Massachusetts, detached conformably to the act of Congress of April 10th, 1812, as I may deem necessary for the defence of the seacoast; and I now have the honor of requesting your Excellency to order fourteen companies of artillery, and twenty-seven companies of infantry, into the service of the United States, for the defence of the ports and harbors in this State, and the harbor of Newport.

The companies are intended for the following ports and harbors, viz: Passamaquoddy, one company of artillery, and four companies of infantry, with a full complement of officers, to be commanded by a major; Marblehead, Salem, Cape Ann, and Newburyport, two companies of artillery and two companies of infantry; Boston, four companies of artillery and eight companies of infantry, with one lieutenant colonel commandant and one major; and eight companies of infantry for the defence of Rhode Island.

Having received official information that war has been declared by Congress against Great Britain, your Excellency will perceive the expediency of giving facility to such measures as the crisis demands; and, as the defence of the seacoast of New England is, at present, confided to my direction, I shall, with confidence, rely on all the aid and support that the respective Governors can afford, and more especially on that of the Governor of the important State of Massachusetts; and I shall, at all times, receive, with the greatest pleasure, any advice or information that your Excellency may be pleased to communicate.

With respectful consideration. I am, sir, your obedient servant,

H. DEARBORN.

HIS EXC'Y CALEB STRONG,  
*Governor of Massachusetts.*

Omitted in the above:—Machias, one company of artillery; Penobscot, one company of artillery and two companies of infantry, to be commanded by a major; Wiscasset and Damariscotta, two companies of artillery, one each; Kennebunk, one company of artillery; Portland, two companies of artillery and three companies of infantry, to be commanded by a major.

BOSTON, June 26, 1812.

SIR: Not having received any notice from your Excellency, or the Adjutant General, of what measures have been taken for calling into the service of the United States, for the defence of our seacoast, the companies of detached militia, proposed in a note I had the honor of addressing to your Excellency, on the 22d instant, a sense of duty compels me to solicit such information on the subject as the urgency of the case demands; and I am persuaded that no unnecessary delay will disappoint my anxious desire for as early information as circumstances will admit.

With respect, &c. H. DEARBORN.

HIS EXC'Y CALEB STRONG, &c.

BOSTON, June 26, 1812.

SIR: I have received your letter, of this day, in which you request information of the measures which have been taken for calling the militia into the service of the United States.

I find that Governor Gerry, on the 25th April last, ordered that ten thousand men should be detached from the militia of this State; but, I am informed by the Adjutant General, that the returns of those detachments have not come to hand, except in a very few instances.

I am, sir, with great respect, your most obedient servant,

CALEB STRONG.

To Major General DEARBORN.

WAR DEPARTMENT, July 21, 1812.

SIR: By information received from Major General Dearborn, it appears that the detachments from the militia of Massachusetts, for the defence of the maritime frontier, required by him under the authority of the President, by virtue of the act of the 10th of April, 1812, have not been marched to the several stations assigned them.

Inasmuch as longer delay may be followed with distress to a certain portion of our fellow-citizens, and with injurious consequences to our country, I am commanded, by the President, to inform your Excellency, that this arrangement of the militia was preparatory to the march of the regular troops to the Northern frontier. The exigencies of the service have required, and orders have accordingly been given to Major General Dearborn, to move the regular troops to that frontier, leaving a sufficient number to man the guns in the garrisons on the seaboard. The execution of this order increases, as your Excellency cannot fail to observe, the necessity of hastening the detached militia to their several posts, as assigned by General Dearborn, in which case, they will, of course, be considered in the actual service and pay of the United States.

The danger of invasion, which existed at the time of issuing the order of the President, increases, and I am specially directed by the President to urge the consideration to your Excellency, as requiring the necessary order to be given for the immediate march of the several detachments specified by General Dearborn, to their respective posts. I have the honor to be, &c.

W. EUSTIS.

HIS EXC'Y CALEB STRONG,  
*Governor of Massachusetts.*

BOSTON, August 5, 1812.

I received your letter of the 21st July, when at Northampton, and the next day came to Boston. The people of this State appear to be under no apprehension of an invasion; several towns, indeed, on the seacoast, soon after the declaration of war, applied to the Governor and Council for arms and ammunition, similar to the articles of that kind which had been delivered to them by the State, in the course of the last war; and, in

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some instances, they were supplied accordingly. But they expressed no desire that any part of the militia should be called out for their defence, and, in some cases, we were assured such a measure would be disagreeable to them.

You observe, in your last letter, that the danger of invasion which existed at the time of issuing the order of the President, increases. It would be difficult to infer from this expression, that, in your opinion, that danger is now very considerable, as the President's order must have been issued before war was declared, your former letter being dated the 12th of June, and General Dearborn's, who was then at Boston, on the 22d of that month; besides, it can hardly be supposed that, if this State had been in great danger of invasion, the troops would have been called from hence to carry on offensive operations in a distant Province. However, as it was understood that the Governor of Nova Scotia had, by proclamation, forbid any incursions or depredations upon our territories, and as an opinion generally prevailed that the Governor had no authority to call the militia into actual service, unless one of the exigencies contemplated by the Constitution exists, I thought it expedient to call the Council together, and, having laid before them your letter, and those I had received from General Dearborn, I requested their advice on the subject of them.

The Council advised, that they are unable, from a view of the Constitution of the United States, and the letters aforesaid, to perceive that any exigency exists, which can render it advisable to comply with the said requisition. But as, upon important questions of law, and upon solemn occasions, the Governor and Council have authority to require the opinion of the Justices of the Supreme Judicial Court, it is advisable to request the opinion of the Supreme Court upon the following questions:

"1st. Whether the commanders-in-chief of the militia of the several States have a right to determine whether any of the exigencies contemplated by the Constitution of the United States exist, so as to require them to place the militia, or any part of it, in the service of the United States, at the request of the President, to be commanded by him, pursuant to acts of Congress?

"2d. Whether, when either of the exigencies exist, authorizing the employing of the militia in the service of the United States, the militia thus employed can be lawfully commanded by any officer but of the militia, except by the President of the United States?"

I enclose a copy of the answers given by the judges to these questions. Since the Council were called, a person deputed by the towns of Eastport and Robinson, on our Eastern boundary, at Passamaquoddy, applied to me, representing that they had no apprehensions of invasion by an authorized British force, but that there were many lawless people on the borders from whom they were in danger of predatory incursions, and requesting that they might be furnished with some arms and ammunition, and that three companies of militia might be called

out for their protection. The Council advised that they should be supplied with such arms and ammunition as were necessary for their present defence, which has been ordered. They also advised me to call into the service of the United States three companies of the detached militia, for the purposes above mentioned. I have this day issued an order for calling out three companies of the detached militia, to be marched, forthwith, to Passamaquoddy, and to be commanded by a major. Two of the companies will be stationed at Eastport, and one company at Robinson, until the President shall otherwise direct.

I have no intention officiously to interfere in the measures of the General Government, but if the President was fully acquainted with the situation of this State, I think he would have no wish to call our militia into service in the manner proposed by General Dearborn.

It is well known that the enemy will find it difficult to spare troops sufficient for the defence of their own territory, and predatory incursions are not likely to take place in this State: for, at every point, except Passamaquoddy, which can present no object to those incursions, the people are too numerous to be attacked by such parties as generally engage in expeditions of that kind.

General Dearborn proposed that the detached militia should be stationed at only a few of the ports and places on the coast; from the rest, a part of their militia were to be called away. This circumstance would increase their danger; it would invite the aggressions of the enemy, and diminish their power of resistance.

The whole coast of Cape Cod is exposed, as much as any part of the State, to depredations; part of the militia must, according to this detaching order, be marched from their homes; and yet, no place in the old colony of Plymouth is assigned to be the rendezvous of any of the detached militia.

Every harbor or port within the State has a compact settlement, and, generally, the country around the harbors is populous. The places contemplated in General Dearborn's specification, as the rendezvous of the detached militia, excepting in one or two instances, contain more of the militia than the portion of the detached militia assigned to them. The militia are well organized, and would undoubtedly prefer to defend their firesides, in company with their friends, under their own officers, rather than to be marched to some distant place, while strangers might be introduced to take their places at home.

In Boston, the militia are well disciplined, and could be mustered in an hour upon any signal of an approaching enemy, and in six hours the neighboring towns would pour in a greater force than any invading enemy will bring against it.

The same remark applies to Salem, Marblehead, and Newburyport, places whose harbors render an invasion next to impossible. In all of them, there are, in addition to the common militia, independent corps of infantry and artillery, well disciplined and equipped, and ready, both in disposition and means, to repair to any place



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where invasion may be threatened, and able to repel it, except it should be made by a fleet of heavy ships, against which nothing perhaps but strong fortifications, garrisoned by regular troops, would prove any defence, until the enemy should land, when the entire militia would be prepared to meet them.

Kennebunk is unassailable by anything but boats, which the numerous armed population is competent to resist. Portland has a militia, and independent corps, sufficiently numerous for its defence; and the same is the case with Wiscasset and Castine.

Against predatory incursions, the militia of each place would be able to defend their property, and, in a very short time, they would be aided, if necessary, by the militia of the surrounding country. In case of a more serious invasion, whole brigades or divisions could be collected, seasonably, for defence. Indeed, considering the state of the militia in this Commonwealth, I think there can be no doubt that, detaching a part of it, and distributing it into small portions, will tend to impair the defensive power.

I have thus freely expressed to you my own sentiments, and, so far as I have heard, they are the sentiments of the best informed men. I am fully disposed to afford all the aid to the measures of the National Government which the Constitution requires of me; but I presume it will not be expected, or desired, that I shall fail in the duty which I owe to the people of this State, who have confided their interests to my care.

I am, sir, &c. CALEB STRONG.

Hon. W. EUSTIS, *Secretary of War.*

*To his Excellency the Governor, and the honorable the Council of the Commonwealth of Massachusetts.*

The undersigned, Justices of the Supreme Judicial Court, have considered the questions proposed by your Excellency and Honors for their opinion.

By the Constitution of this State, the authority of commanding the militia of the Commonwealth is vested exclusively in the Governor, who has all the powers incident to the office of Commander-in-Chief, and is to exercise them personally, or by subordinate officers under his command, agreeably to the rules and regulations of the Constitution and the laws of the land.

While the Governor of the Commonwealth remained in the exercise of these powers, the Federal Constitution was ratified, by which was vested in the Congress a power to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, and to provide for governing such parts of them as may be employed in the service of the United States, reserving to the States, respectively, the appointment of the officers.

The Federal Constitution further provides that the President shall be Commander-in-Chief of the Army of the United States, and of the militia of the several States, when called into the actual service of the United States.

On the construction of the Federal and State Constitutions must depend the answers to the several questions proposed. As the militia of the several States may be employed in the service of the United States, for the three specific purposes of executing the laws of the Union, of suppressing insurrections, and of repelling invasions, the opinion of the judges is requested whether the commanders-in-chief of the militia of the several States have a right to determine whether any of the exigencies aforesaid exist, so as to require them to place the militia, or any part of it, in the service of the United States, at the request of the President, to be commanded by him pursuant to acts of Congress.

It is the opinion of the undersigned that this right is vested in the commanders-in-chief of the militia of the several States.

The Federal Constitution provides that, whenever either of these exigencies exists, the militia may be employed, pursuant to some act of Congress, in the service of the United States; but no power is given, either to the President, or to the Congress, to determine that either of the said exigencies do in fact exist. As this power is not delegated to the United States, by the Federal Constitution, nor prohibited by it, to the States, it is reserved to the States, respectively; and, from the nature of the power, it must be exercised by those with whom the States have, respectively, intrusted the chief command of the militia.

It is the duty of these commanders to execute this important trust agreeably to the laws of their several States, respectively, without reference to the laws, or officers, of the United States, in all cases except those specially provided in the Federal Constitution. They must, therefore, determine when either of the special cases exist obliging them to relinquish the execution of this trust, and to render themselves, and the militia, subject to the command of the President. A different construction, giving to Congress the right to determine when these special cases exist, authorizing them to call forth the whole of the militia, and taking them from the commanders-in-chief of the several States, and subjecting them to the command of the President, would place all the militia, in effect, at the will of Congress, and produce a military consolidation of the States, without any Constitutional remedy, against the intentions of the people when ratifying the Constitution. Indeed, since passing the act of Congress, of February 28th, 1795, c. 101, vesting in the President the power of calling forth the militia, when the exigencies mentioned in the Constitution shall exist, if the President has the power of determining when those exigencies exist, the militia of the several States is in effect at his command and subject to his control.

No inconveniences can reasonably be presumed to result from the construction, which vests in the commanders-in-chief of the militia of the several States, the right of determining when the exigencies exist, obliging them to place the militia in the service of the United States. These

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exigencies are of such a nature that the existence of them can be easily ascertained by, or made known to, the commander-in-chief of the militia, and when ascertained, the public interest will produce prompt obedience to the acts of Congress.

Another question proposed to the consideration of the judges, is, whether, when either of the exigencies exist authorizing the employing of the militia in the service of the United States, the militia thus employed can be lawfully commanded by any officer but of the militia, except by the President of the United States?

The Federal Constitution declares that the President shall be Commander-in-Chief of the Army of the United States. He may undoubtedly exercise this command by officers of the Army of the United States, by him commissioned according to law. The President is also declared to be the Commander-in-Chief of the militia of the several States, when called into the actual service of the United States. The officers of the militia are to be appointed by the States, and the President may exercise his command of the militia by officers of the militia duly appointed.

But we know of no Constitutional provision authorizing any officer of the Army of the United States to command the militia, or authorizing any officer of the militia to command the Army of the United States. The Congress may provide laws for the government of the militia, when in actual service, but to extend this power to the placing them under the command of an officer not of the militia, except the President, would render nugatory the provision, that the militia are to have officers appointed by the States.

The union of the militia in the actual service of the United States with troops of the United States, so far as to form one army, seems to be a case not provided for, or contemplated, in the Constitution. It is, therefore, not within our department to determine on whom the command would devolve, on such an emergency, in the absence of the President; whether one officer, either of the militia, or of the Army of the United States, to be settled according to military rank, should command the whole; whether the corps must be commanded by their respective officers, acting in concert as allied forces; or what other expedient should be adopted, are questions to be answered by others.

The undersigned regret that the distance of the other Justices of the Supreme Judicial Court renders it impracticable to obtain their opinions, seasonably, upon the questions submitted.

THEOPHILUS PARSONS,  
SAMUEL SEWALL,  
ISAAC PARKER.

BOSTON, August 21, 1812.

SIR: I mentioned in my letter to you of the 5th of August, that I had that day issued an order for calling out three companies of the detached militia, to be marched immediately to Passamaquoddy, for the defence of that frontier, and to be commanded by a major. In my instructions

to Major General Sewall, to be communicated to the major to be designated by him, I directed that two of the companies should be stationed at Eastport, and one company at Robinson, until the President should direct otherwise, unless, in the mean time, the major, with the advice of Brigadier General Brewer, who lives at Robinson, and to whom I wrote on the subject, should think a different disposition of the companies would be more advantageous.

I have this day received a letter from General Sewall, dated the 17th instant, in which he says that he had designated the detached company in the neighborhood of Eastport, under the command of Captain Thomas Vose, junior, of Robinson. The detached company in the interior neighborhood of Penobscot river, under the command of Captain Joshua Chamberlain, of Orrington, and the detached company in the same neighborhood, under the command of Captain Thomas George, of Brewer, to form a battalion, to be commanded by Major Nathan Low, of Deer Isle, and directed them to march immediately to Eastport, and that they would probably march the next day. I shall immediately write to Major Low, and direct him to conform to the above instructions, in disposing of the companies, until the President of the United States shall otherwise direct.

I am, sir, with respect,

CALEB STRONG.

Hon. WM. EUSTIS, *Secretary of War.*

NORTHAMPTON, Sept. 10, 1812.

SIR: I received this morning a letter from Major General Sewall, dated the first of this month, in which he mentioned that the detached troops, from the neighborhood of Penobscot, had marched to Eastport, five or six days before that time, with their adjutant and quartermaster, but that Major Low, who was appointed to command them, had been released from that service on account of bodily infirmity, and that Major Jacob Ulmer, of Lincolnville, was appointed in his room, and had been notified to proceed immediately to Eastport.

General Sewall observes that application had been made to him for the appointment of a commissary and surgeon, for the post at Eastport, and if those appointments, or either of them, are thought necessary, he proposes Mr. Chevy, an officer of the artillery, for the former, and Doctor Bastow, a surgeon in the militia, for the latter, both inhabitants of Eastport.

I am, sir, with sentiments of respect, your most obedient servant,

CALEB STRONG.

Hon. WM. EUSTIS, *Secretary of War.*

LYME, April 20, 1812.

SIR: I had the honor this morning to receive your letter of the 15th instant, containing the directions of the President of the United States for detaching three thousand of the militia of

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this State, agreeably to the provisions of the act of Congress of the 10th instant. The act itself has not been received, and it will be very satisfactory to me to receive a copy of it by the next mail from your department. In the meantime every preparation will be made for detaching the officers and men, agreeably to the directions already received. I have the honor to be, &c.

ROGER GRISWOLD.

Hon. SECRETARY OF WAR.

WAR DEPARTMENT, *June 12, 1812.*

SIR: I am directed by the President to request your Excellency to order into the service of the United States, on the requisition of Major General Dearborn, such part of the quota of militia from the State of Connecticut, detached conformably to the act of April 10, 1812, as he may deem necessary for the defence of the seacoast.

I have the honor to be, &c.

W. EUSTIS.

His Ex'cy ROGER GRISWOLD,  
*Governor of Connecticut.*

LYME, *June 17, 1812.*

SIR: I have had the honor this afternoon to receive your letter of the 12th instant, communicating to me the request of the President that I would order into the service of the United States, on the requisition of Major General Dearborn, such part of the quota of militia from the State of Connecticut, detached conformably to the act of Congress of April 10th, 1812, as he may deem necessary for the defence of the seacoast.

In obedience to which request, I shall, on the requisition of General Dearborn, execute without delay the request of the President.

With great respect, I have the honor to be, your obedient servant,

ROGER GRISWOLD.

Hon. WM. EUSTIS, *Secretary of War.*

SHARON. (CT.), *July 2, 1812.*

SIR: His Excellency Governor Griswold has received from Major General Henry Dearborn a letter, under date of the 22d of last month, requesting that five companies of the militia of this State, detached conformably to the act of Congress of April 10, 1812, may be ordered into the service of the United States, to wit: "Two companies of artillery, and two companies of infantry, to be placed under the command of the commanding officer at Fort Trumbull, near New London, and one company of artillery, to be stationed at the battery at the entrance of the harbor of New Haven."

Impressed with the deep importance of the requisition, and the serious consideration it involves, his Excellency deemed it expedient to convene the Council at Hartford, on Monday the 29th ultimo. He has taken their advice upon this interesting subject, and has formed his own deliberate opinion; but, as he is under the necessity of leaving the State, on a journey for the

recovery of his health, it becomes my duty, as Lieutenant Governor, to communicate to you the result.

The assurance contained in the Governor's letter of the 17th of June last, in answer to yours of the 12th of the same month, was necessarily given in full confidence that no demand would be made through General Dearborn, but in strict conformity to the Constitution and laws of the United States. His Excellency regrets to perceive that the present requisition is supported by neither.

The Constitution of the United States has ordained that Congress may provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions.

Accordingly, the acts of Congress of February, 1795, and of April, 1812, do provide for calling forth the militia in the exigencies above mentioned. The Governor is not informed of any declaration made by the President of the United States, or of notice by him given, that the militia are required "to execute the laws of the Union, suppress insurrections, or repel invasions." As, therefore, none of the contingencies enumerated in the Constitution, and recognised by the laws, are shown to have taken place, his Excellency considers that, under existing circumstances, no portion of the militia of this State can be withdrawn from his authority. Further, if the call had been justified by either of the Constitutional exigencies already recited, still, in the view of his Excellency, an insuperable objection presents itself against placing the men under the immediate command of an officer or officers of the army of the United States.

The appointment of the officers of the militia is by the Constitution expressly reserved "to the States respectively." In the event of their being called into the actual service of the United States, in the case above specified, the laws of the United States provide for their being called forth as militia, furnished with proper officers by the State. And, sir, it will not escape your notice, that the detachment from the militia of this State, under the act of Congress of the 10th of April last, is regularly organized into a division, consisting of brigades, regiments, battalions, and companies, and supplied according to law with all the necessary officers. His Excellency conceives, then, that an order to detach a number of companies sufficient for the command of a battalion officer, and place them under the command of an officer of the United States, cannot, with propriety, be executed, unless he were also prepared to admit that the privates may be separated from their company officers, and transferred into the Army of the United States; thus leaving the officers of the militia without any command, except in name; and in effect impairing, if not annihilating, the militia itself, so sacredly guarantied by the Constitution to the several States. Under these impressions, the Governor has thought proper, by and with the advice of the Council, to refuse a compliance with the requisition of Major General Dearborn.

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His Excellency is sincerely disposed to comply promptly with all the Constitutional requests of the National Executive; a disposition which has ever been manifested by the Government of this State; and he laments the occasion which thus compels him to yield obedience to the paramount authority of the Constitution and laws. He trusts the General Government will speedily provide an adequate force for the security and protection of the seacoast. In the meantime, his Excellency has issued the necessary orders to the general officers commanding the militia in that quarter to be in readiness to repel any invasion which may be attempted upon that portion of the State, and to co-operate with such part of the national forces as shall be employed for the same purpose.

With great respect, I have the honor to be, sir, your obedient and very humble servant,

JOHN COTTON SMITH.

Hon. WM. EUSTIS, *Secretary of War.*

WAR DEPARTMENT, *July 14, 1812.*

SIR: I have the honor to acknowledge your letter of the third instant.

The absence of His Excellency, Governor Griswold, on account of ill health, is seriously to be regretted, particularly at this important crisis, when his prompt assurances of obeying the requisition of the President, to call into the service of the United States such detachments of militia as might be required, conformably to the act of April 10, 1812, through General Dearborn, are intercepted and suspended by your Honor.

The reasons assigned for refusing to execute the engagements of his Excellency, Governor Griswold, appear not less extraordinary than the act itself.

After a declaration of war against a nation possessed of a powerful and numerous fleet, a part of which were actually on our coast, had been promulgated, and officially communicated to the Executive of the State, the assertion made by your Honor, "that the Governor is not informed that the United States are in imminent danger of invasion," was not to have been expected. To remove all doubts from your mind on this subject, I am instructed by the President to state to you, that such danger actually exists; and to request that the requisition of General Dearborn, made by his special authority, for calling into the service of the United States certain detachments of militia from the State of Connecticut, be forthwith carried into effect.

The right of the State to officer the militia is clearly recognised in the requisition of General Dearborn. The detachments, when marched to the several posts assigned them, with their proper officers, appointed conformably to the laws of the State, will command, or be commanded, according to the rules and articles of war and the usages of service. Very respectfully, &c.

W. EUSTIS.

His Honor JOHN C. SMITH,  
*Governor of Connecticut.*

LYME, *August 13, 1812.*

SIR: His Honor Governor Smith has put into my hands your letter of the 14th of July, and it is with surprise I notice the construction you have put on my letter of the 17th of June. The unusual and exceptionable terms, also, in which your letter is expressed, have not escaped notice. But a regard to the propriety of my own conduct will not allow me to descend to any comments upon its particular expressions, but leave me to perform my duty to the General Government, by giving the explanation which appears proper.

When you communicated the request of the President that any future requisition from General Dearborn for a part of the draughted militia, might be complied with, it remained uncertain whether such a requirement would be made, or, if made, under what circumstances it might take place.

Confident, however, that the President would authorize no requisition which was not strictly Constitutional, and particularly that the order would not exceed the conditions of the act of the 10th of April, to which you had referred, I had no hesitation in giving general assurance that the requisitions which the President might make through General Dearborn would be complied with. I then thought, as I do still, that decency, and a due respect to the first Magistrate of the Union, required that my assurance should be general, and no expression should be used which might imply a suspicion that the President would violate the Constitution in his orders. I also expected that this early and general declaration would be considered as evidence of a disposition which has been uniformly felt in this State, to execute every Constitutional requisition from the General Government.

In what light, however, my expressions have been viewed, I trust there will be no future misconstruction, when I assure you that I neither intended or expected to be understood, by the general language of my letter, or any expression it contained, to give the smallest assurance that I would execute any order which I judged repugnant to the Constitution, from whatever source it might emanate.

The light in which I have viewed the order from General Dearborn has been already communicated by Governor Smith, and it is only proper to add that my opinion has not changed, but is confirmed by the unanimous opinions of the Council of the State.

The new light in which you have presented the subject in your letter to Governor Smith has received every attention, but still my opinion remains the same. The war, which has commenced, and the cruising of a hostile fleet on our coast, is not invasion; and the declaration of the President, that there is imminent danger of invasion, is evidently a consequence drawn from the facts now disclosed, and is not, in my opinion, warranted by those facts. If such consequences were admitted to result from a declaration of war with an European Power, it would follow that every war of that character would throw the

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militia into the hands of the National Government, and strip the States of the important right reserved to them. In addition to the foregoing facts, it is proper for me further to observe, that I have found it difficult to fix in my mind the meaning of the words "imminent danger of invasion," used by Congress in the act of the 28th of February, 1795, and now repeated in your letter, as no such expression is contained in that part of the Constitution which authorizes the President to call the militia into service. Presuming, however, that some definite meaning, thought consistent with the Constitution, was at the time annexed to the expression, I have rather inferred that the Legislature must have intended only to include an extreme case, where an enemy had not passed the line of the United States, but were evidently advancing in force to invade our country. Such a case would undoubtedly come with-

in the spirit of the Constitution, although it might not be included in its literal expression.

But whether the Congress in 1795 were justified in the expression, or not, is unimportant, there being no difficulty in the present case, as none of the facts disclosed furnish anything more than a slight danger of invasion, which the Constitution could not contemplate, and which might exist even in times of peace.

While I regret this difference of opinion on a question of such importance, I do not doubt that the President will do me the justice to believe that a sense of duty leaves me no other course to pursue, and that every means for the defence of the State will be speedily provided for.

I have the honor to be your most obedient and humble servant,

ROGER GRISWOLD.

Hon. WILLIAM EUSTIS, &c.

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be subject to the same rules and regulations, as if he had enlisted for the term of five years.

Approved, December 12, 1812.

An Act concerning the District and Territorial Judges of the United States.

*Be it enacted, &c.,* That, hereafter, it shall be incumbent upon the district and territorial judges of the United States, to reside within the districts and territories, respectively, for which they are appointed; and that it shall not be lawful for any judge, appointed under the authority of the United States, to exercise the profession or employment of counsel or attorney, or to be engaged in the practice of the law. And any person offending against the injunction or prohibition of this act, shall be deemed guilty of a high misdemeanor.

Approved, December 18, 1812.

An Act to increase the Navy of the United States.

*Be it enacted, &c.,* That the President of the United States shall be, and he hereby is, authorized, as soon as suitable materials can be procured therefor, to cause to be built, equipped, and employed, four ships, to rate not less than seventy-four guns, and six ships to rate forty-four guns each.

SEC. 2. *And be it further enacted,* That there shall be employed on board each of the said ships of seventy-four guns each, one captain, six lieutenants, one captain, one first lieutenant and one second lieutenant of marines, one surgeon, one chaplain, one purser, and three surgeons' mates.

SEC. 3. *And be it further enacted,* That there shall be employed in each of the said ships, carrying seventy-four guns, the following warrant officers, who shall be appointed by the President of the United States: one master, one second master, three masters' mates, one boatswain, one gunner, one carpenter, one sailmaker, and twenty midshipmen; and the following petty officers, who shall be appointed by the captains of the ships, respectively, in which they are to be employed, viz: one armorer, six boatswains' mates, three gunners' mates, two carpenters' mates, one sailmaker's mate, one cooper, one steward, one master at arms, one cook, one coxswain, one boatswain's yeoman, one gunner's yeoman, one carpenter's yeoman, ten quarter gunners, eight quartermasters, and one clerk, and one schoolmaster, also to be appointed by the captain.

SEC. 4. *And be it further enacted,* That the crews of each of the said ships of seventy-four guns, shall consist of two hundred able seamen, three hundred ordinary seamen and boys, three sergeants, three corporals, one drummer, one fifer, and sixty marines.

SEC. 5. *And be it further enacted,* That the pay of the schoolmaster shall be twenty-five dollars per month and two rations per day.

SEC. 6. *And be it further enacted,* That the sum of two millions five hundred thousand dollars be and the same is hereby appropriated, out

of any moneys in the Treasury not otherwise appropriated, for the building and equipping of the aforesaid ships of war.

Approved, January 2, 1813.

An Act directing the Secretary of the Treasury to remit fines, forfeitures, and penalties, in certain cases.

*Be it enacted, &c.,* That in all cases where goods, wares, and merchandise, owned by a citizen or citizens of the United States, have been imported into the United States from the United Kingdom of Great Britain and Ireland, which goods, wares, and merchandise, were shipped on board vessels which departed therefrom between the twenty-third day of June last, and the fifteenth day of September last, and the person or persons interested in such goods, wares, or merchandise, or concerned in the importation thereof, have thereby incurred any fine, penalty, and forfeiture, under an act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," and an act, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," and the act supplementary to the act last mentioned, on such person or persons petitioning for relief, to any judge or court proper to hear the same, in pursuance of the provisions of the act, entitled "An act to provide for mitigating or remitting the fines, forfeitures, and penalties, in certain cases therein mentioned," and on the facts being shown, on inquiry had by said judge or court, stated and transmitted, as by said act is required, to the Secretary of the Treasury; in all such cases wherein it shall be proved to his satisfaction that said goods, wares, and merchandise, at the time of their shipment, were *bona fide* owned by a citizen or citizens of the United States, and shipped and did depart from some port or place in the United Kingdom of Great Britain and Ireland, owned as aforesaid, between the twenty-third day of June last, and the fifteenth day of September last, the Secretary of the Treasury is hereby directed to remit all fines, penalties, and forfeitures, that may have been incurred under the said acts, in consequence of such shipment, importation, or importations, upon the costs and charges that have arisen or may arise being paid, and on payment of the duties which would have been payable by law on such goods, wares, and merchandise, if legally imported; and, also, to direct the prosecution or prosecutions, if any shall have been instituted for the recovery thereof, to cease and be discontinued: *Provided, nevertheless,* That no case in which the purchase of such goods, wares, and merchandise was made, after war was known to exist between the United States and Great Britain, at the port or place where such purchase was made, shall be entitled to the benefits of this act.

Approved, January 2, 1813.

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An Act approving of the report of the Commissioners appointed by the Secretary at War, to ascertain and settle the exterior line of the public land at West Point, in the State of New York.

*Be it enacted, &c.,* That the report of the commissioners appointed by the Secretary at War to settle the exterior line of the public land at West Point, in the State of New York, with the adjoining proprietor, conformably to an act to authorize the Secretary at War to ascertain and settle, by the appointment of commissioners, the exterior line of the public land at West Point with the adjoining proprietor, be and the same is hereby approved.

Approved, January 5, 1813.

An Act authorizing the President of the United States to establish post routes, in certain cases.

*Be it enacted, &c.,* That the President of the United States, during the existence of the war in which the United States are engaged, or of any war in which they may be engaged, shall be and is hereby authorized to direct the Postmaster General to send a mail between the headquarters of any army of the United States, and such post office as he may think proper; and the route or road on which the same shall be conveyed shall, to all intents and purposes, be an established post road, so long as the mail shall be sent on the same, conformably to the authority hereby given.

Approved, January 14, 1813.

An Act providing Navy Pensions, in certain cases.

*Be it enacted, &c.,* That if any officer of the navy or marines shall be killed or die, by reason of a wound received in the line of his duty, leaving a widow, or, if no widow, a child or children, under sixteen years of age, such widow, or, if no widow, such child or children, shall be entitled to receive half the monthly pay to which the deceased was entitled at the time of his death, which allowance shall continue for and during the term of five years; but in case of the death or intermarriage of such widow, before the expiration of the said term of five years, the half pay for the remainder shall go to the child or children of the said deceased officer: *Provided,* That such half pay shall cease on the death of such child or children; and the money required for this purpose shall be paid out of the navy pension fund, under the direction of the commissioners of that fund.

Approved, January 20, 1813.

An Act making certain partial appropriations for the year one thousand eight hundred and thirteen.

*Be it enacted, &c.,* That the sum of one million of dollars be, and the same is hereby, appropriated towards defraying the expenses of the Military Establishment of the United States, during the year one thousand eight hundred and thirteen; and that the sum of one million of dollars be, and the same is hereby, appropriated to-

wards defraying the expenses of the Navy during the year one thousand eight hundred and thirteen.

*Sec. 2. And be it further enacted,* That the following sums be appropriated for the purposes herein recited, that is to say: Towards defraying the compensation granted by law to the members of the Senate and House of Representatives, their officers and attendants, during the year one thousand eight hundred and thirteen, fifty thousand dollars.

Towards defraying the contingent expenses of the House of Representatives, during the year one thousand eight hundred and thirteen, ten thousand dollars.

*Sec. 3. And be it further enacted,* That the several appropriations, hereinbefore made, shall be paid and discharged out of any moneys in the Treasury, not otherwise appropriated.

Approved, January 20, 1813.

An Act supplementary to the act, entitled "An act for the more perfect organization of the Army of the United States."

*Be it enacted, &c.,* That the President of the United States be and he is hereby authorized, by and with the advice and consent of the Senate, to appoint one additional major to the first regiment of light dragoons, the regiment of light artillery, each regiment of infantry, and the rifle regiment, in the army of the United States; who shall receive the like pay, rations, forage, and other emoluments, as officers of the same grade and corps of the present military establishment.

*Sec. 2. And be it further enacted,* That there be appointed, in manner aforesaid, one third lieutenant to each troop or company, in the army of the United States, who, if of cavalry or light dragoons, shall receive the monthly pay of thirty dollars, and of other corps, twenty-three dollars, and be allowed the same forage, rations, and other emoluments, as second lieutenants of the same corps to which they belong.

*Sec. 3. And be it further enacted,* That there be allowed to each troop or company, in the army of the United States, one additional sergeant, who shall receive the like pay, clothing, rations, and other emoluments, as sergeants of the present military establishment.

*Sec. 4. And be it further enacted,* That in order to complete the present military establishment to the full number authorized by law, with the greatest possible despatch, there shall be paid to each effective able-bodied man, who shall be duly enlisted into the service of the United States, after the first day of February next, to serve for the term of five years, or during the war, an advance of twenty-four dollars, on account of his pay, in addition to the existing bounty; one half of such advance to be paid at the enlistment of the recruit, and the other half when he shall be mustered and have joined some military corps of the United States, for service; and a bounty of one hundred and sixty acres of land, as heretofore established by law.

SEC. 5. *And be it further enacted*, That the commissioned officers who shall be employed in the recruiting service, shall be entitled to receive for every effective able-bodied man, who shall be duly enlisted after the first day of February next, by them, for the term of five years or during the war, and mustered, and between the ages of eighteen and forty-five years, the sum of four dollars: *Provided nevertheless*, That this regulation, so far as respects the age of the recruit, shall not extend to musicians, or to those soldiers who may re-enlist into the service: *And provided also*, That no person under the age of twenty-one years shall be enlisted by any officer, or held in the service of the United States, without the consent, in writing, of his parent, guardian, or master, first had and obtained, if any he have; and if any officer shall enlist any person contrary to the true intent and meaning of this act, for every such offence he shall forfeit and pay the amount of the bounty and clothing which the person so recruited may have received from the public, to be deducted out of the pay and emoluments of such officer.

SEC. 6. *And be it further enacted*, That it shall be lawful for any person during the time he may be performing a tour of militia duty to enlist in the regular army of the United States, and the recruiting officers are hereby authorized to enlist any such person, in the same manner, and under the same regulations, as if he were not performing such militia duty; and every person who shall enlist, while performing a tour of militia duty as aforesaid, shall be thereby exonerated from serving the remainder of said tour; and the State to which he may belong shall not be required to furnish any other person to serve in his stead.

Approved, January 20, 1813.

An Act in addition to the act concerning Letters of Marque, Prizes, and Prize Goods.

*Be it enacted, &c.*, That all prizes of vessels and property, captured by private armed ships, commissioned under the authority of the United States, which may be condemned in any district or circuit court of the United States, shall be sold at public auction, by the marshal of the district in which the same shall be condemned, within sixty days after the condemnation thereof; sufficient notice of the time and place, and conditions of sale, being first given, on such day or days, on such terms of credit, and in such lots or proportions as may be designated by the owner or owners, or agent of the owner or owners of the privateer which may have captured the same: *Provided*, That the term of such credit shall not exceed ninety days; and the said marshal is hereby directed to take and receive from the purchaser of such prize vessel and property the money therefor, or his, her, or their promissory notes, with endorsers, to be approved by the owner or owners of the privateer, to the amount of the purchase, payable according to the terms thereof.

SEC. 2. *And be it further enacted*, That upon all duties, costs, and charges, being paid according to law, the said marshal shall, on demand, deliver and pay over to the owner or owners of the privateer, or to the agent of such owner or owners of the privateer, which may have captured such prize vessel and property, a just and equal proportion of the funds received on account of the sale thereof, and of the promissory notes directed to be taken as aforesaid, to which the said owner or owners may be entitled, according to the articles of agreement between the said owner or owners, and the officers and crew of the said privateer; and a just and equal proportion of the proceeds of the sale as aforesaid, shall, on demand, be also paid over by the said marshal to the officers and crew of the said privateer, or to their agent or agents. And if there be no written agreement, it shall be the duty of the marshal to pay over, in manner as aforesaid, one moiety of the proceeds of the sale of such prize vessel and property to the owner or owners, agent or agents of the owner or owners of the privateer, which may have captured the same; and the other moiety of the said proceeds to the agent or agents of the officers and crew of the said privateer, to be distributed according to law, or to any agreement by them made: *Provided*, The said officers and crew, or their agent or agents, shall have first refunded to the owner or owners, or to the agent of the owner or owners of the privateer aforesaid, the full amount of advances which shall have been made by the owner or owners of the privateer, to the officers and crew thereof.

SEC. 3. *And be it further enacted*, That for the selling prize property, and receiving and paying over the proceeds as aforesaid, the marshal shall be entitled to a commission of one per cent. and no more, first deducting all duties, costs, and charges, which may have accrued on said property: *Provided*, That on no case of condemnation and sale of any one prize vessel and cargo shall the commissions of the marshal exceed two hundred and fifty dollars.

SEC. 4. *And be it further enacted*, That it shall be the duty of the marshal, within fifteen days after any sale of prize property, to file in the office of the clerk of the district court, of the district wherein such sale may be made, a just and true account of the sales of such prize property, and of all duties and charges thereon, together with a statement thereto annexed of the promissory notes taken on account thereof, which account shall be verified by the oath of the said marshal; and if the said marshal shall wilfully neglect, or refuse to file such account, he shall forfeit and pay the sum of five hundred dollars for each omission or refusal as aforesaid, to be recovered in an action of debt by any person interested in such sale, and suing for the said penalty, on account of the party or parties interested in the prize vessel or property sold as aforesaid, in any court having cognizance thereof.

SEC. 5. *And be it further enacted*, That the owner or owners of any private armed vessel or



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vessels, or their agent or agents, may, at any time before a libel shall be filed against any captured vessel or her cargo, remove the same from any port into which such prize vessel or property may be first brought, to any other port in the United States, to be designated at the time of the removal as aforesaid, subject to the same restrictions and complying with the same regulations, with respect to the payment of duties, which are provided by law, in relation to other vessels arriving in port with cargoes subject to the payment of duties: *Provided*, That before such removal the said captured property shall not have been attached at the suit of any adverse claimant, or a claim against the same have been interposed in behalf of the United States.

Approved, January 27, 1813.

An Act authorizing the admission, under certain circumstances, of vessels owned by citizens of the United States of America, with their cargoes, from British ports beyond the Cape of Good Hope.

*Be it enacted, &c.*, That in all cases where goods, wares, and merchandise, *bona fide* the property of a citizen or citizens of the United States, have been imported into the United States from British ports beyond the Cape of Good Hope, for the cargoes of which vessels bonds have been required at the port or place of shipment from, and have been given by the owners, agents, consignees, or supercargoes of such vessels, that the cargoes thereof shall be delivered or landed at some port or place in the United States; and the person or persons interested in such goods, wares, or merchandise, or concerned in the importation thereof, have incurred thereby any fine, penalty, and forfeiture, or have delivered the same into the possession or custody of the United States, on such person petitioning for relief to any judge or court proper to hear the same, in pursuance of the provisions of the act, entitled "An act to provide for mitigating and remitting the fines, forfeitures, and penalties, in certain cases therein mentioned;" and on the facts being shown, on inquiry had by said judge or court, stated and transmitted as by said act is required to the Secretary of the Treasury; in all such cases wherein it shall be proved to his satisfaction that said goods, wares, and merchandise, at the time of their shipment, were *bona fide* owned by a citizen or citizens of the United States, and for the landing or delivery of which at some port or place in the United States bonds were required and given as aforesaid, the Secretary of the Treasury is hereby directed to remit all fines, penalties, and forfeitures, which may have been incurred in consequence of such shipment, importation, or importations, to deliver up possession of the said vessels, goods, wares, and merchandise to the owner or owners thereof, upon the costs or charges that have arisen, or may arise, being paid, and the duties payable on such goods, wares, and merchandise, or which would have been payable if they had been legally imported, being paid or secured to be paid ac-

cording to law, as if the same had been imported and entered at the time of the release thereof; and also to direct the prosecution or prosecutions, if any shall have been instituted for the recovery of such fines, penalties, and forfeitures, to cease and be discontinued: *Provided*, That nothing in this act contained shall extend or be construed to extend to a remission of or exemption from any fine, penalty, or forfeiture, which has been or may be incurred for a breach of any law or laws of the United States, other than such as prohibit the admission into the United States of goods, wares, and merchandise, imported as aforesaid.

Approved, January 27, 1813.

An Act in addition to the act, entitled "An act to raise an additional military force," and for other purposes.

*Be it enacted, &c.*, That, in addition to the present Military Establishment of the United States, there be raised such number of regiments of infantry, not exceeding twenty, as in the opinion of the President may be necessary for the public service, to be enlisted for the term of one year, unless sooner discharged.

SEC. 2. *And be it further enacted*, That each of the said regiments shall consist of one colonel, one lieutenant colonel, two majors, one adjutant, one paymaster, one quartermaster, one surgeon, two surgeon's mates, one sergeant-major, one quartermaster-sergeant, two principal musicians, and ten companies.

SEC. 3. *And be it further enacted*, That each company shall consist of one captain, one first lieutenant, one second lieutenant, one third lieutenant one ensign, five sergeants, six corporals, two musicians, and ninety privates.

SEC. 4. *And be it further enacted*, That it shall be lawful for the President of the United States, in the recess of the Senate, to appoint such of the officers authorized by this act, as may not be appointed during the present session; which appointments shall be submitted to the Senate at their next session for their advice and consent.

SEC. 5. *And be it further enacted*, That all the officers, non-commissioned officers, musicians, and privates, authorized by this act, shall receive the like pay, forage, rations, clothing, and other emoluments (the land and bounty excepted) as the officers of the same grade and corps, non-commissioned officers, musicians, and privates, of the present Military Establishment.

SEC. 6. *And be it further enacted*, That the officers, non-commissioned officers, musicians, and privates, of the regiments hereby authorized to be raised, shall be governed by the rules and articles of war, which have been established by the United States in Congress assembled, or by such rules and articles as may be hereafter by law established.

SEC. 7. *And be it further enacted*, That the commissioned officers who shall be employed in recruiting the force authorized by this act, shall be entitled to receive, for every person enlisted by them into this service, for the term specified, and

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approved by the commanding officer of the regiment, and between the ages of eighteen and forty-five years, the sum of two dollars: *Provided nevertheless*, That this regulation, so far as respects the age of the recruits, shall not extend to musicians, or those soldiers who may re-enlist into the service: *And provided also*, That no person, under the age of twenty-one years, shall be enlisted by any officer, or held in the service of the United States, without the consent, in writing, of his parent, guardian, or master, first had and obtained, if any he have; and if any officer shall enlist any person contrary to the true intent and meaning of this act, for every such offence he shall forfeit and pay the amount of the bounty and clothing, which the persons so recruited may have received from the public, to be deducted out of the pay and emoluments of such officer.

SEC. 8. *And be it further enacted*, That there shall be allowed and paid to each man, recruited as aforesaid, a bounty of sixteen dollars; but the payment of eight dollars of the said bounty shall be deferred until he shall be mustered, and have joined some military corps of the United States.

SEC. 9. *And be it further enacted*, That the said regiments shall be paid in such manner, that the arrears shall at no time exceed two months, unless the circumstances of the case shall render it unavoidable.

SEC. 10. *And be it further enacted*, That if any officer, non-commissioned officer, musician, or private, shall be disabled by wounds or otherwise, while in the line of his duty in public service, he shall be placed on the list of invalids of the United States, at such a rate of pension and under such regulations as are or may be directed by law: *Provided always*, That the compensation to be allowed for such wounds or disabilities, to a commissioned officer, shall not exceed, for the highest rate of disability, half the monthly pay of such officer, at the time of his being disabled or wounded; and that no officer shall receive more than the half pay of a lieutenant-colonel; and that the rate of compensation to non-commissioned officers, musicians, and privates, shall not exceed five dollars per month: *And provided also*, That all inferior disabilities shall entitle the person so disabled to receive an allowance proportionate to the highest disability.

SEC. 11. *And be it further enacted*, That if any commissioned officer shall, while in the service of the United States, die, by reason of any wound received in actual service of the United States, and leave a widow, or, if no widow, a child or children, under sixteen years of age, such widow, or, if no widow, such child or children, shall be entitled to and receive half the monthly pay to which the deceased was entitled at the time of his death, for and during the term of five years; but in case of the death or intermarriage of such widow, before the expiration of the said term of five years, the half pay for the remainder of the time shall go to the child or children of such deceased officer: *Provided always*, That such half pay shall cease on the decease of such child or children.

SEC. 12. *And be it further enacted*, That if any non-commissioned officer, musician, or private, shall desert the service of the United States, he shall, in addition to the penalties mentioned in the rules and articles of war, be liable to serve for and during such a period as shall, with the time he may have served previous to his desertion, amount to the full term of his enlistment; and such soldier shall and may be tried by a court martial, and punished, although the term of his enlistment may have elapsed previous to his being apprehended or tried.

SEC. 13. *And be it further enacted*, That every officer, non-commissioned officer, musician, or private, shall take and subscribe the following oath or affirmation, to wit: "I, A. B., do solemnly swear or affirm (as the case may be) that I will bear true faith and allegiance to the United States of America; and that I will serve them honestly and faithfully against their enemies or opposers whomsoever; and that I will observe and obey the orders of the President of the United States, and the orders of the officers appointed over me, according to the rules and articles of war."

SEC. 24. *And be it further enacted*, That where any commissioned officer shall be obliged to incur any extra expense in travelling and sitting on general courts martial, he shall be allowed a reasonable compensation for such extra expense, actually incurred, not exceeding one dollar and twenty-five cents per day to officers who are not entitled to forage, and not exceeding one dollar per day to such as shall be entitled to forage.

SEC. 15. *And be it further enacted*, That whenever any officer or soldier shall be discharged from the service, except by way of punishment for an offence, he shall be allowed his pay and rations, or an equivalent in money, for such term of time as shall be sufficient for him to travel from the place of discharge to the place of his residence, computing at the rate of twenty miles to a day.

SEC. 16. *And be it further enacted*, That there shall be appointed to each brigade one chaplain, who shall be entitled to the same pay and emoluments as a major in the infantry.

SEC. 17. *And be it further enacted*, That no field or staff officer, who may be appointed by virtue of this act, shall be entitled to receive any pay or emoluments until he shall be called into actual service, nor for any longer time than he shall continue therein.

SEC. 18. *And be it further enacted*. That the act, entitled "An act authorizing the President of the United States to accept and organize certain volunteer military corps," and the act, entitled "An act supplementary to the act, entitled, 'An act authorizing the President of the United States to accept and organize certain volunteer military corps,'" be, and the same are hereby repealed, from and after the first day of February next: *Provided*, That nothing herein contained shall be so construed as to deprive the officers and men who may have entered the service as volunteers, under the said acts, of any rights, immunities, or privileges therein secured, or the

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United States of the services of such volunteers, agreeably to the provisions of the said acts.

Approved, January 29, 1813.

An Act for the relief of the Bible Society of Philadelphia.

*Be it enacted, &c.,* That the duties arising and due to the United States upon certain stereotype plates, imported during the last year into the port of Philadelphia, on board the ship *Brilliant*, by the Bible Society of Philadelphia, for the purpose of printing editions of the Holy Bible, be and the same are hereby remitted, on behalf of the United States, to the said society: and any bond or security given for the securing of the payment of the said duties shall be cancelled.

Approved, February 2, 1813.

An Act supplementary to an act, entitled "An act to provide for calling forth the militia to execute the laws, suppress insurrections, and repel invasions," and to repeal the act now in force for those purposes, and to increase the pay of volunteer and militia corps.

*Be it enacted, &c.,* That in every case in which a court martial shall have adjudged and determined a fine against any officer, non-commissioned officer, musician, or private, of the militia, for any of the causes specified in the act to which this act is a supplement, or in the fourth section of an act, entitled "An act to authorize a detachment from the militia of the United States;" all such fines, so assessed, shall be certified to the Comptroller of the Treasury of the United States, in the same manner as the act to which this act is a supplement directed the same to be certified to the supervisor of the revenue.

SEC. 2. *And be it further enacted,* That the marshals shall pay all fines which have been levied and collected by them or their respective deputies, under the authority of the acts herein referred to, into the Treasury of the United States, within two months after they shall have received the same, deducting five per centum for their own trouble; and, in case of failure, it shall be the duty of the Comptroller of the Treasury to give notice to the District Attorney of the United States, who shall proceed against the said marshal in the district court by attachment for the recovery of the same.

SEC. 3. *And be it further enacted,* That the non-commissioned officers, musicians, and privates of volunteer and militia corps, who, subsequent to the thirty-first day of December, one thousand eight hundred and twelve, shall have been or may hereafter be called out, while in the service of the United States, shall, during the continuance of the present war between the United Kingdom of Great Britain and Ireland, and the dependencies thereof, and the United States of America and their territories, be entitled to and receive the same monthly pay, rations, and forage, and furnished with the same camp equipage, as are or may be provided by law for the non-commissioned officers, musicians, and privates of the Army of the United States.

Approved, February 2, 1813.

An Act giving the right of pre-emption in the purchase of lands to certain settlers in the Illinois Territory.

*Be it enacted, &c.,* That every person, or the legal representative of every person, who has actually inhabited and cultivated a tract of land lying in either of the districts established for the sale of public lands, in the Illinois Territory, which tract is not rightfully claimed by any other person, and who shall not have removed from said Territory; every such person and his legal representatives shall be entitled to a preference in becoming the purchaser from the United States of such tract of land at private sale, at the same price, and on the same terms and conditions, in every respect, as are or may be provided by law for the sale of other lands sold at private sale in said Territory, at the time of making such purchase: *Provided,* That no more than one quarter section of land shall be sold to any one individual, in virtue of this act; and the same shall be bounded by the sectional and divisional lines run, or to be run, under the direction of the Surveyor General for the division of the public lands: *Provided also,* That no lands reserved from sale by former acts, or lands which have been directed to be sold in town lots, and out lots, shall be sold under this act.

SEC. 2. *And be it further enacted,* That every person claiming a preference in becoming the purchaser of a tract of land, in virtue of this act, shall make known his claim, by delivering a notice in writing, to the register of the land office, for the district in which the land may lie, wherein he shall particularly designate the quarter section he claims; which notice the register shall file in his office, on receiving twenty-five cents from the person delivering the same. And in every case where it shall appear, to the satisfaction of the register and receiver of public moneys of the land office, that any person, who has delivered his notice of claim, is entitled, according to the provision of this act, to a preference in becoming the purchaser of a quarter section of land, such person so entitled shall have a right to enter the same, with the register of the land office, on producing his receipt from the receiver of public moneys for at least one-twentieth part of the purchase money, as in case of other public lands sold at private sale: *Provided,* That all lands to be sold under this act shall be entered with the register at least two weeks before the time of the commencement of the public sales, in the district wherein the land lies: and every person having a right of preference in becoming the purchaser of a tract of land, who shall fail so to make his entry with the register, within the time prescribed, his right shall be forfeited, and the land by him claimed shall be offered at public sale, with the other public lands in the district to which it belongs.—[Approved, February 5, 1813.]

An Act authorizing a loan for a sum not exceeding sixteen millions of dollars.

*Be it enacted, &c.,* That the President of the United States be, and he is hereby, authorized to borrow, on the credit of the United States, a sum

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not exceeding sixteen millions of dollars, to be applied, in addition to the moneys now in the Treasury, or which may be received from other sources, to defray any of the expenses which have been, or, during the present session of Congress may be authorized by law, and for which appropriations have been, or, during the present session of Congress, may be made by law: *Provided*, That no engagement nor contract shall be entered into, which shall preclude the United States from reimbursing any sum or sums thus borrowed at any time after the expiration of twelve years, from the first day of January next: *And it is hereby further declared*, That it shall be deemed a good execution of the said power to borrow, for the President of the United States to cause to be sold, the whole or any part of the certificates of stock issued for the sums to be borrowed by virtue of this act.

SEC. 2. *And be it further enacted*, That the President of the United States do cause to be laid before Congress, on the first Monday in February, eighteen hundred and fourteen, or so soon thereafter as Congress may be in session, an account of all moneys obtained by the sale of the certificates of stock, by virtue of the power given him by the preceding section, together with a statement of the rate at which the same may have been sold.

SEC. 3. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized to employ, with the approbation of the President of the United States, an agent or agents, for the purpose of obtaining subscriptions to the loan authorized by this act, or of selling any part of the stock created by virtue thereof. A commission not exceeding one quarter of one per cent. on the amount thus sold, or for which subscriptions shall have been thus obtained, may, by the Secretary of the Treasury, be allowed to such agent or agents; and a sum not exceeding forty thousand dollars, to be paid out of any moneys in the Treasury not otherwise appropriated, is hereby appropriated for paying the amount of such commission or commissions, as may be thus allowed, and also for defraying the expenses of printing and issuing the subscription certificates and certificates of stock and other expenses incident to the receiving of subscriptions, and completing the loan authorized by this act.

SEC. 4. *And be it further enacted*, That so much of the funds constituting the annual appropriation of eight millions of dollars, for the payment of the principal and interest of the public debt of the United States, as may be wanted for that purpose, after satisfying the sums necessary for the payment of the interest, and such part of the principal of said debt, as the United States are now pledged annually to pay or reimburse, is hereby pledged and appropriated for the payment of the interest, and for the reimbursement of the principal of the stock which may be created by virtue of this act: it shall accordingly be the duty of the Commissioners of the Sinking Fund, to cause to be applied and paid out of the said fund, yearly, such sum and sums as may be an-

nually wanted to discharge the interest accruing on the said stock, and to reimburse the principal as the same shall become due, and may be discharged in conformity with the terms of the loan; and they are further authorized to apply, from time to time, such sum or sums, out of the said fund, as they may think proper, towards redeeming by purchase, and at a price not above par, the principal of the said stock, or any part thereof. And the faith of the United States is hereby pledged, to establish sufficient revenues for making up any deficiency that may hereafter take place in the funds hereby appropriated for paying the said interest and principal sums, or any of them, in manner aforesaid.

SEC. 5. *And be it further enacted*, That it shall be lawful for any of the banks in the District of Columbia, to lend any part of the sum authorized to be borrowed by virtue of this act, anything in any of their charters of incorporation to the contrary notwithstanding.

Approved, February 8, 1813.

An Act regulating pensions to persons on board private armed ships.

*Be it enacted, &c.*, That the two per centum reserved in the hands of the Collectors and Consuls by the act of June, eighteen hundred and twelve, entitled "An act concerning letters of marque, prizes, and prize goods," shall be paid to the Treasury, under the like regulations provided for other public money and shall constitute a fund for the purposes provided for by the seventeenth section of the beforementioned act.

SEC. 2. *And be it further enacted*, That the Secretary of the Navy be authorized and required to place on the pension list, under the like regulations and restrictions as are used in relation to the Navy of the United States, any officer, seaman, or marine, who, on board of any private armed ship or vessel bearing a commission of letter of marque, shall have been wounded or otherwise disabled in any engagement with the enemy; allowing to the captain a sum not exceeding twenty dollars per month; to lieutenants and sailing master, a sum not exceeding twelve dollars each per month; to marine officer, boatswain, gunner, carpenter, master's mate, and prize-masters, a sum not exceeding ten dollars each per month; to all other officers a sum not exceeding eight dollars each per month, for the highest rate of disability, and so in proportion; and to a seaman, or acting as a marine, the sum of six dollars per month, for the highest rate of disability, and so in proportion; which several pensions shall be paid, by direction of the Secretary of the Navy, out of the fund above provided, and from no other.

SEC. 3. *And be it further enacted*, That the commanding officer of every vessel, having a commission, or letters of marque and reprisal, shall enter in his journal the name and rank of any officer, and the name of any seaman, who, during his cruise, shall have been wounded or disabled as aforesaid, describing the manner and extent, as far as practicable, of such wound or disability.

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SEC. 4. *And be it further enacted*, That every collector shall transmit quarterly to the Secretary of the Navy, a transcript of such journal as may have been reported to him, so far as it gives a list of the officers and crew, and the description of wounds and disabilities, the better to enable the Secretary to decide on claims for pensions.

Approved, February 13, 1813.

An Act confirming certain claims to lands in the District of Vincennes.

*Be it enacted, &c.*, That all the decisions of the register and receiver of public moneys for the district of Vincennes, made in favor of persons claiming donation lands in the said district, as entered in a list of claims, which, in the opinion of the said register and receiver, ought to be confirmed in pursuance of the act, entitled "An act providing for the sale of certain lands in the Indiana Territory, and for other purposes," passed on the thirtieth day of April, one thousand eight hundred and ten, which list is a part of their report to the Secretary of the Treasury, bearing date of the twenty-seventh day of May, one thousand eight hundred and twelve, be, and the same are hereby, confirmed.

SEC. 2. *And be it further enacted*, That the following persons, whose claims, according to the aforesaid report, are not embraced by the provisions of the above recited act, but which nevertheless, in the opinion of the register and receiver, ought to be confirmed, shall be, and their claims are hereby, confirmed, respectively, to the following quantities of land, that is to say: the heirs of Francis Peltier, the heirs of Bernice Lefever, and the heirs of Jean Btt. Valecour, respectively, four hundred acres; Rene Campeau, Francois Cardinal, the heirs of Joseph Pancake, the heirs of Jacob Howell, the heirs of Alexander Wilson, the heirs of Daniel Sullivan, and the heirs of Jacob Tevebaugh, respectively, one hundred acres.

SEC. 3. *And be it further enacted*, That the several persons whose claims are confirmed by this act, are hereby authorized to enter their locations with the register of the land office at Vincennes, on any part of the tract set apart for that purpose in said district, by virtue of the act, entitled "An act respecting claims to lands in the Indiana Territory and State of Ohio," and in conformity to the provisions of that act: *Provided*, That such locations shall be made prior to the first day of October next; and the right of any person who shall neglect to locate prior to that day shall become void and forever be barred.

SEC. 4. *And be it further enacted*, That every person, or the legal representative of every person, whose claim to a tract of land is confirmed by this act, shall, whenever his claim shall have been located and surveyed, be entitled to receive, from the register of the land office at Vincennes, a certificate, stating that the claimant is entitled to receive a patent for such tract of land by virtue of this act; for which certificate the register shall receive one dollar; and which certificate shall entitle the party to a patent for the said

tract of land, which shall issue, in like manner, as is provided by law for the other lands of the United States.

Approved, February 13, 1813.

An Act making provision for an additional number of General Officers.

*Be it enacted, &c.*, That the President be, and he is hereby, authorized, by and with the advice and consent of the Senate, to appoint six major generals, in addition to those already authorized by law; each of whom shall be allowed two aids-de-camp, to be taken from the officers of the line, and six brigadier generals, who shall be allowed a brigade major, and one aid-de-camp, each to be taken also from the officers of the line.

SEC. 2. *And be it further enacted*, That the officers authorized by this act, shall receive the same pay, forage, rations, and other emoluments, as the officers of the same grade of the present Military Establishment.

Approved, February 24, 1813.

An Act authorizing the issuing of Treasury notes for the service of the year one thousand eight hundred and thirteen.

*Be it enacted, &c.*, That the President of the United States be, and he is hereby, authorized to cause Treasury notes for such sum or sums as he may think expedient, but not exceeding in the whole the sum of five millions of dollars, to be prepared, signed, and issued, in the manner hereinafter provided.

SEC. 2. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized, in addition to the amount authorized by the next preceding section of this act, to cause Treasury notes, for such sum or sums as he may think expedient, but not exceeding, in the whole, the further sum of five millions of dollars, to be prepared, signed, and issued, in the manner hereinafter provided: *Provided*, That the amount of money borrowed or obtained, by virtue of the notes which may be issued by virtue of this section, shall be deemed, and held to be, in part of the sum of sixteen millions of dollars, authorized to be borrowed by virtue of the act to that effect, passed during the present session of Congress.

SEC. 3. *And be it further enacted*, That the said Treasury notes shall be reimbursed by the United States, at such places, respectively, as may be expressed on the face of the said notes, one year, respectively, after the day on which the same shall have been issued; from which day of issue they shall bear interest, at the rate of five and two-fifths per centum a year, payable to the owner and owners of such notes, at the Treasury, or by the proper commissioner of loans, or by the officer designated for that purpose, at the places and times respectively designated on the face of said notes, for the payment of the principal.

SEC. 4. *And be it further enacted*, That the said Treasury notes shall be respectively signed,

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in behalf of the United States, by persons to be appointed for that purpose by the President of the United States, two of which persons shall sign each note, and shall each receive, as a compensation for that service, at the rate of one dollar and twenty-five cents for every hundred notes thus signed by them, respectively; and the said notes shall likewise be countersigned by the commissioner of loans for that State, where the notes may respectively be made payable, or by the Register of the Treasury, if made payable in the District of Columbia, or by a person to be appointed for that purpose by the President of the United States, if made payable in a State for which there is no commissioner of loans; which person or persons thus appointed shall also receive, as a compensation for that service, at the rate of one dollar and twenty-five cents for every hundred notes thus signed by him or them respectively.

SEC. 5. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized, with the approbation of the President of the United States, to cause to be issued such portion of the said Treasury notes as the President may think expedient, in payment of supplies, or debts due by the United States, to such public creditors, or other persons, as may choose to receive such notes in payment, as aforesaid, at par; and the Secretary of the Treasury is further authorized, with the approbation of the President of the United States, to borrow, from time to time, not under par, such sums as the President may think expedient on the credit of such notes; or to sell, not under par, such portion of the said notes as the President may think expedient: and it shall be a good execution of this provision to pay such notes to such bank or banks, as will receive the same at par, and give credit to the Treasury of the United States, for the amount thereof, on the day on which the said notes shall thus be issued and paid to such bank or banks respectively.

SEC. 6. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized, with the approbation of the President of the United States, to employ an agent or agents for the purpose of selling any portion of the notes which may be issued by virtue of this act: a commission not exceeding one-quarter of one per cent., on the amount thus sold, may, by the Secretary of the Treasury, be allowed to such agent or agents; and a sum not exceeding twenty-five thousand dollars, to be paid out of any moneys in the Treasury, not otherwise appropriated, is hereby appropriated for paying such commission or commission as may be thus allowed.

SEC. 7. *And be it further enacted*, That the said Treasury notes shall be transferrable by delivery and assignment, endorsed thereon by the person to whose order, the same shall, on the face thereof, have been made payable.

SEC. 8. *And be it further enacted*, That the said Treasury notes, wherever made payable, shall be everywhere received in payment of all duties and taxes laid by the authority of the Uni-

ted States, and of all public lands sold by the said authority: on every such payment credit shall be given for the amount of both the principal and the interest, which, on the day of such payment, may appear due on the note or notes thus given in payment: and the said interest shall, on such payments, be computed at the rate of one cent and one-half of a cent per day, on every hundred dollars of principal, and each month shall be computed as containing thirty days.

SEC. 9. *And be it further enacted*, That any person making payment to the United States, in the said Treasury notes, into the hands of any collector, receiver of public moneys, or other public officer or agent, shall, on books kept according to such forms as shall be prescribed by the Secretary of the Treasury, give duplicate certificates of the number and respective amount of principal and interest of each and every Treasury note thus paid by such person; and every collector, receiver of public moneys, or other public officer or agent, who shall thus receive any of the said Treasury notes in payment, shall, on payment of the same into the Treasury, or into one of the banks where the public moneys are, or may be, deposited, receive credit both for the principal and for the interest, computed as aforesaid, which, on the day of such last mentioned payment, shall appear due on the note or notes thus paid in; and he shall be charged for the interest accrued on such note or notes from the day on which the same shall have been received by him in payment as aforesaid, to the day on which the same shall be paid by him as aforesaid: *Provided, always*, That no such charge or deduction shall be made with respect to any bank, into which payments as aforesaid, may be made to the United States, either by individuals or by collectors, receivers, or other public officers, or agents, and which shall receive the same as specie, and give credit to the Treasurer of the United States for the amount thereof, including the interest accrued and due on such notes on the day on which the same shall have been thus paid into such bank, on account of the United States.

SEC. 10. *And be it further enacted*, That the Commissioners of the Sinking Fund be, and they are hereby, authorized and directed to cause to be reimbursed and paid the principal and interest of the Treasury notes which may be issued by virtue of this act, at the several time and times when the same, according to the provisions of this act, should be thus reimbursed and paid; and the said commissioners are further authorized to make purchases of the said notes, in the same manner as of other evidences of the public debt, and at a price not exceeding par, for the amount of the principal and interest due at the time of purchase of such notes. So much of the funds constituting the annual appropriation of eight millions of dollars, for the payment of the principal and interest of the public debt of the United States, as may be wanted for that purpose, after satisfying the sums necessary for the payment of the interest and such part of the principal of the said debt, as the United States are now pledged annually to pay and reimburse, inclu-

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ding therein the interest and principal which may become payable upon any loan or loans which may be contracted by virtue of any law passed during the present session of Congress, is hereby pledged and appropriated for the payment of the interest, and for the reimbursement or purchase of the principal of the said notes; and so much of any moneys in the Treasury not otherwise appropriated, as may be necessary for that purpose, is hereby appropriated for making up any deficiency in the funds thus pledged and appropriated, for paying the principal and interest as aforesaid; and that the Secretary of the Treasury is hereby authorized and directed for that purpose, to cause to be paid to the Commissioners of the Sinking Fund such sum or sums of money, and at such time and times as will enable the said Commissioners faithfully and punctually to pay the principal and interest of the said notes.

SEC. 11. *And be it further enacted*, That a sum of forty thousand dollars, to be paid out of any money in the Treasury not otherwise appropriated, be, and the same is hereby, appropriated, for defraying the expense of preparing, printing, engraving, signing, and otherwise incident to the issuing of the Treasury notes authorized by this act.

SEC. 12. *And be it further enacted*, That if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting, any note in imitation of, or purporting to be, a Treasury note aforesaid; or shall falsely alter, or cause, or procure to be falsely altered, or willingly aid or assist in falsely altering any Treasury note issued as aforesaid; or shall pass, utter, or publish, or attempt to pass, utter, or publish, as true, any false, forged, or counterfeited note, purporting to be a Treasury note as aforesaid, knowing the same to be falsely made, forged, or counterfeited; or shall pass, utter, or publish, or attempt to pass, utter, or publish as true, any falsely altered Treasury note issued as aforesaid, knowing the same to be falsely altered, every such person shall be deemed and adjudged guilty of felony, and being thereof convicted, by due course of law, shall be sentenced to be imprisoned and kept to hard labor for a period not less than three years, nor more than ten years, and be fined in a sum not exceeding five thousand dollars.

Approved, February 25, 1813.

An Act to impose a duty on the importation of iron wire.

*Be it enacted, &c.*, That iron wire, which, from and after the passage of this act, shall be imported into the United States and the Territories thereof, shall be subject to the same duty as is paid on the importation of iron, steel, or brass locks, hinges, hoes, anvils, and vices.

SEC. 2. *And be it further enacted*, That an addition of ten per centum shall be made on the rate of duty hereby directed to be collected on the importation of iron wire as aforesaid, in ships or vessels not of the United States.

SEC. 3. *And be it further enacted*, That the duty laid by this act shall be levied and collected in the same manner, and under the same regulations and allowances as to drawbacks, mode of security, and time of payment, as the duties now in force on the articles hereinbefore enumerated.

Approved, February 25, 1813.

An Act to raise ten additional companies of rangers.

*Be it enacted, &c.*, That the President of the United States be, and he is hereby, authorized to raise ten additional companies of rangers, on the same provisions, conditions, and restrictions, as those authorized to be raised by "An act authorizing the President of the United States to raise certain companies of rangers for the protection of the frontier of the United States," which said companies shall be in lieu of one of the regiments authorized to be raised by the act in addition to the act entitled "An act to raise an additional military force, and for other purposes," passed the twenty-ninth day of January, one thousand eight hundred and thirteen.

Approved, February 25, 1813.

An Act to alter the time for the next meeting of Congress.

*Be it enacted, &c.*, That, after the adjournment of the present session, the next meeting of Congress shall be on the fourth Monday of May next.

Approved, February 27, 1813.

An Act directing the Secretary of the Treasury to remit certain fines, penalties, and forfeitures, therein mentioned.

*Be it enacted, &c.*, That in all cases where goods, wares, and merchandise have been imported or introduced into the United States (the same not having been clandestinely imported or introduced) from the dependencies of the United Kingdom of Great Britain and Ireland, since the declaration of war by the United States against the said Kingdom, or which were shipped from the said Kingdom prior to the second day of February, one thousand eight hundred and eleven, whereby the person or persons interested in such goods, wares, or merchandise, or concerned in the importation or introduction thereof, into the United States, hath or have incurred any fine, penalty or forfeiture, under an act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes;" and an act, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes;" and the act supplementary to the act last mentioned, on such person or persons petitioning for relief to any judge or court, proper to hear the same, in pursuance of the provisions of the act, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned;" and on the facts being shown, on in-

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quity had by the said judge or courts, stated and transmitted, as by the said act is required, to the Secretary of the Treasury; in all such cases wherein it shall be proved, to his satisfaction, that the said goods, wares, and merchandise, at the time of their importation or introduction into the United States were *bona fide* American property, that they were not clandestinely imported or introduced, and that they were imported or introduced since the declaration of war aforesaid, the Secretary of the Treasury is hereby directed to remit all fines, penalties, and forfeitures that may have been incurred under the said acts, in consequence of such importation or introduction into the United States, upon the costs and charges that have arisen, or may arise, being paid on payment of the duties that would have been payable by law, on such goods, wares, and merchandise, if legally imported; and also, to direct the prosecution or prosecutions, if any shall have been instituted, for the recovery of the said fines, penalties, and forfeitures, to cease and be discontinued.

SEC. 2. *And be it further enacted*, That the duties payable on the goods, wares, and merchandise, embraced by the provisions of the act, entitled "An act authorizing the admission, under certain circumstances, of vessels owned by citizens of the United States of America, with their cargoes, from British ports beyond the Cape of Good Hope," shall not, in any case, be paid, or secured to be paid, in such manner as to postpone the payment of such duties beyond the time and times at which the said duties should have become payable, if the goods, wares, and merchandise had been imported and entered at the time of passing this act, anything in the act above mentioned to the contrary notwithstanding.

Approved, February 27, 1813.

An Act in addition to an act regulating the Post Office Establishment.

*Be it enacted, &c.*, That the Postmaster General be, and he is hereby, authorized to contract for carrying mails of the United States in any steamboat or boats, which are or may be established to ply between one post town and another post town: *Provided*, That such contract shall not be made for a longer period than four years: *And provided also*, That the pay for such service shall not be at a greater rate, taking into consideration distance, expedition, and frequency, than is paid for carrying the mail by stages, on the post road or roads, or adjacent to the course of such steamboats, and that such contracts shall secure the regular transportation of the mail throughout each year.

Approved, February 27, 1813.

An Act authorizing the appointment of additional officers in the respective Territories of the United States.

*Be it enacted, &c.*, That there shall be appointed in the respective Territories of the United States a person learned in the law, to act as Attorney of the United States, who shall, besides the usual

fees of office, receive an annual salary of two hundred and fifty dollars, payable quarter-yearly, at the Treasury of the United States; and there shall also be appointed, in each of said Territories, a Marshal, who shall receive the same fees and compensation as is allowed by law to the Marshal of the district of Kentucky.

Approved, February 27, 1813.

An Act to establish certain post roads in the State of Louisiana.

*Be it enacted, &c.*, That the following post roads be established: from Natchez, in the Mississippi Territory, by Concordia, to Catahoula, and from thence, by Rapids, to Natchitoches; from St. Francisville, by St. Helena and St. Tammany, to Madisonville.

Approved, February 27, 1813.

An Act to encourage Vaccination.

*Be it enacted, &c.*, That the President of the United States be, and he is hereby, authorized to appoint an agent to preserve the genuine vaccine matter, and to furnish the same to any citizen of the United States, whenever it may be applied for, through the medium of the post office; and such agent shall, previous to his entering upon the execution of the duties assigned to him by this act, and before he shall be entitled to the privilege of franking any letter or package as herein allowed, take and subscribe the following oath or affirmation, before some magistrate, and cause a certificate thereof to be filed in the General Post Office: "I, A. B., do swear (or affirm, as the case may be) that I will faithfully use my best exertions to preserve the genuine vaccine matter, and to furnish the same to the citizens of the United States; and also, that I will abstain from everything prohibited in relation to the establishment of the post office of the United States." And it shall be the duty of the said agent to transmit to the several postmasters in the United States a copy of this act; and he shall also forward to them a public notice, directing how and where all application shall be made to him for vaccine matter.

SEC. 2. *And be it further enacted*, That all letters or packages, not exceeding half an ounce in weight, containing vaccine matter, or relating to the subject of vaccination, and that alone, shall be carried by the United States' mail free of any postage, either to or from the agent who may be appointed to carry the provisions of this act into effect: *Provided always*, That the said agent, before he delivers any letter for transmission by the mail, shall, in his own proper handwriting, on the outside thereof, endorse the word "vaccination," and thereto subscribe his name, and shall previously furnish the postmaster of the office where he shall deposit the same with a specimen of his signature; and if said agent shall frank any letter or package, in which shall be contained anything relative to any subject other than vaccination, he shall, on conviction of every



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such offence, forfeit and pay a fine of fifty dollars, to be recovered in the same manner as other fines or violations of law establishing the post office: *Provided also*, That the discharge of any agent, and the appointment of another in his stead, be at the discretion of the President of the United States.

Approved, February 27, 1813.

An Act giving further time for registering claims to lands in the eastern and western districts of the Territory of Orleans, now State of Louisiana.

*Be it enacted, &c.*, That every person or persons claiming lands in the eastern or western district of the Territory of Orleans, now State of Louisiana, who are actual settlers on the land which they claim, and whose claims have not been heretofore filed with the register of the land office for the district wherein the lands lie, shall be allowed until the first day of January next, to deliver notices in writing, and the written evidences of their claims, in the said districts, respectively, to the register of the land office at New Orleans and Opelousas; and the notices and evidences so delivered, within the time limited by this act, shall be recorded in the same manner, and on payment of the same fees, as if the same had been delivered before the first day of July, one thousand eight hundred and eight; but the rights of such persons as shall neglect so doing, within the time limited by this act, shall, so far as they are derived from, or founded on, any act of Congress, ever after be barred and become void, and the evidences of their claims never after admitted as evidence in any court of the United States against any grant derived from the United States.

SEC. 2. *And be it further enacted*, That every person or persons who had filed his or their notice of claims to land, lying within either of the said districts with the proper register of the land office, according to former laws, but have not exhibited any testimony or written evidence in support of the same, and whose claim has not been confirmed by the commissioners appointed to ascertain and settle claims to lands in the said districts, shall be allowed until the first day of January next, to deliver the written evidence or other testimony in support of his or their claim, the notice of which had been filed as aforesaid, to the register of the land office at New Orleans, for lands lying in the eastern district, and the register of the land office at Opelousas, for lands lying in the western district; and every written evidence of claim, the notice whereof had been filed as aforesaid, for lands lying in the said districts, delivered, within the time limited by this section, to the said registers, shall, by them, respectively be recorded in the same manner as was directed, and on receiving the same fees allowed by former acts for recording evidence of claim to lands in the same districts; and the right of any such persons neglecting to deliver the evidence of their claims as abovementioned, shall become barred and void in so far as the same is derived from

the United States, and the evidence thereof be incapable of being admitted in any court whatsoever against any grant derived from the United States.

SEC. 3. *And be it further enacted*, That the register and receiver of public moneys of the said respective land offices at New Orleans and Opelousas, shall have the same powers and perform the same duties in every respect, in relation to the claims that may be filed according to the first section of this act, and the claims, notice of which had been given under former acts, and the evidence in support thereof shall have been delivered according to the second section of this act, as the board of commissioners, for ascertaining and adjusting claims to lands in the same districts, would have had or should have performed, if such notice had been filed, and such evidence delivered, before the first day of July, one thousand eight hundred and eight, except, that their decisions shall be subject to the revision of Congress.

SEC. 4. *And be it further enacted*, That it shall be the duty of the register and receiver of each of the said land offices, respectively, to make, to the Commissioner of the General Land Office, a report of all the claims filed with the register as aforesaid, with the substance of the evidence in support thereof, and of the claims formerly filed, in support of which evidence shall have been received, with the substance of such evidence, and also their opinion, and such remarks respecting the claims as they may think proper to make; which report, together with a list of the claims which, in the opinion of the register and receiver, ought to be confirmed, shall be laid by the Commissioner of the General Land Office before Congress, at their next session, for their determination thereon.

SEC. 5. *And be it further enacted*, That the register and receiver of the aforesaid land offices shall have power to appoint a clerk, whose duties shall be the same, in relation to the aforesaid claims, as were required of the clerk to the board of commissioners for the same districts, and the said registers, receivers, and clerks, shall each be allowed fifty cents for each claim on which a decision shall be made, in their respective districts, whether such decision be in favor or against the claims; which allowance of fifty cents shall be in full compensation for their services under this act. And a further sum of fifty cents shall be allowed on each claim decided as aforesaid, to defray the expense of making translations from the French and Spanish languages.

Approved, February 27, 1813.

An Act to authorize and empower the President and Managers of the Washington Turnpike Company of the State of Maryland, when organized, to extend and make their turnpike road to or from Georgetown, in the District of Columbia, through the said District, to the line thereof.

*Be it enacted, &c.*, That the law of the State of Maryland, entitled "An act to incorporate a company to make a turnpike road from the line

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of the District of Columbia, where it crosses the post road leading from Georgetown to Fredericktown, through Montgomery and Frederick counties to Fredericktown," passed in the year one thousand eight hundred and five, and the supplement thereto, be, and they are hereby declared to be, in full force, within the District of Columbia.

SEC. 2. *And be it further enacted*, That the president and managers of said company, when organized according to law, shall be, and they are hereby, authorized and empowered to make said turnpike road from Georgetown, in the District of Columbia, through Tennyaltown, to the line of said District, in the same manner, and upon the same terms and conditions, as by law they are authorized to make the said turnpike, within the limits of the State of Maryland.

SEC. 3. *And be it further enacted*, That, when and so soon as the said turnpike road shall be completed from Georgetown, in the District of Columbia, to Montgomery court-house, in the State of Maryland, it shall and may be lawful for the said president and managers of said company to erect a toll-gate on this side of, and near to Tennyaltown, and there to demand and receive such tolls, and on such terms and conditions, as by the law of the State of Maryland they are authorized to demand and receive, at any toll-gate erected on said road within the limits of the State of Maryland.

Approved, February 27, 1813.

An Act to continue in force, for a limited time, the first section of the act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers."

*Be it enacted, &c.*, That so much of the act passed on the twenty-fifth day of March, one thousand eight hundred and four, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers," as is contained in the first section of the said act, and which was continued in force for the time therein mentioned, by an act, entitled "An act to continue in force for a further time the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers,'" passed on the thirty-first day of January, one thousand eight hundred and twelve, be, and the same is hereby, continued in force until the first day of April, one thousand eight hundred and fourteen, and thence to the end of the next ensuing session of Congress: *Provided, however*, That the additional duty laid by said section shall be collected on all such goods, wares, and merchandise, liable to pay the same, as shall have been imported previous to the end of that session of Congress.

Approved, February 27, 1813.

An Act for the regulation of seamen on board the public and private vessels of the United States.

*Be it enacted, &c.*, That, from and after the termination of the war in which the United States are now engaged with Great Britain, it

shall not be lawful to employ on board any of the public or private vessels of the United States any person or persons except citizens of the United States, or persons of color, natives of the United States.

SEC. 2. *And be it further enacted*, That, from and after the time when this act shall take effect, it shall not be lawful to employ as aforesaid any naturalized citizen of the United States, unless such citizen shall produce to the commander of the public vessel, if to be employed on board such vessel, or to a collector of the customs, a certified copy of the act by which he shall have been naturalized, setting forth such naturalization and the time thereof.

SEC. 3. *And be it further enacted*, That, in all cases of private vessels of the United States sailing from a port in the United States to a foreign port, the list of the crew, made as heretofore directed by law, shall be examined by the collector for the district from which the vessel shall clear out, and, if approved of by him, shall be certified accordingly. And no person shall be admitted or employed as aforesaid, on board of any vessel aforesaid, unless his name shall have been entered in the list of the crew, approved and certified by the collector for the district from which the vessel shall clear out as aforesaid. And the said collector, before he delivers the list of the crew, approved and certified as aforesaid, to the captain, master, or proper officer of the vessel to which the same belongs, shall cause the same to be recorded in a book by him for that purpose to be provided, and that the said record shall be open for the inspection of all persons, and a certified copy thereof shall be admitted in evidence in any court in which any question may arise, under any of the provisions of this act.

SEC. 4. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized from time to time to make such further regulations, and to give such directions to the several commanders of public vessels, and to the several collectors, as may be proper and necessary respecting the proofs of citizenship, to be exhibited to the commanders or collectors aforesaid: *Provided*, That nothing contained in such regulations or directions shall be repugnant to any of the provisions of this act.

SEC. 5. *And be it further enacted*, That, from and after the time when this act shall take effect, no seaman or other seafaring man, not being a citizen of the United States, shall be admitted or received as a passenger on board of any public or private vessel of the United States, in a foreign port, without permission in writing from the proper officers of the country of which such seaman or seafaring man may be a subject or citizen.

SEC. 6. *And be it further enacted*, That, from and after the time when this act shall take effect, the Consuls or commercial agents of any nation at peace with the United States shall be admitted (under such regulations as may be prescribed by the President of the United States) to state their objections, to the proper commander or col-

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lector as aforesaid, against the employment of any seaman or seafaring man on board of any public or private vessel of the United States, on account of his being a native subject or citizen of such nation, and not embraced within the description of persons who may be lawfully employed, according to the provisions of this act; and the said Consuls or commercial agents shall also be admitted, under the said regulations, to be present at the time when the proofs of citizenship of the persons against whom such objections may have been made, shall be investigated by such commander or collector.

SEC. 7. *And be it further enacted,* That if any commander of a public vessel of the United States shall knowingly employ, or permit to be employed, or shall admit or receive, or permit to be admitted or received, on board his vessel, any person whose employment or admission is prohibited by the provisions of this act, he shall on conviction thereof forfeit and pay the sum of one thousand dollars for each person thus unlawfully employed or admitted on board such vessel.

SEC. 8. *And be it further enacted,* That if any person shall, contrary to the prohibitions of this act, be employed, or be received on board of any private vessel, the master or commander, and the owner or owners of such vessel, knowing thereof, shall respectively forfeit and pay five hundred dollars for each person thus unlawfully employed or received in any one voyage; which sum or sums shall be recovered, although such seaman or person shall have been admitted and entered in the certified list of the crew aforesaid, by the collector for the district to which the vessel may belong; and all penalties and forfeitures arising under or incurred by virtue of this act, may be sued for, prosecuted, and recovered, with costs of suit, by action of debt, and shall accrue and be one moiety thereof to the use of the person who shall sue for the same, and the other moiety thereof to the use of the United States.

SEC. 9. *And be it further enacted,* That nothing in this act contained shall be construed to prohibit any commander or master of a public or private vessel of the United States, whilst in a foreign port or place, from receiving any American seaman in conformity to law, or supplying any deficiency of seamen on board of such vessel, by employing American seamen, or subjects of such foreign country, the employment of whom shall not be prohibited by the laws thereof.

SEC. 10. *And be it further enacted,* That the provisions of this act shall have no effect or operation with respect to the employment, as seamen, of the subjects or citizens of any foreign nation which shall not, by treaty or special convention with the Government of the United States, have prohibited, on board of her public and private vessels, the employment of native citizens of the United States, who have not become a citizen or subject of such nation.

SEC. 11. *And be it further enacted,* That nothing in this act contained shall be so construed as to prevent any arrangement between the United States and any foreign nation, which may

take place under any treaty or convention, made and ratified in the manner prescribed by the Constitution of the United States.

SEC. 12. *And be it further enacted,* That no person who shall arrive in the United States, from and after the time when this act shall take effect, shall be admitted to become a citizen of the United States, who shall not, for the continued term of five years next preceding his admission as aforesaid, have resided within the United States, without being, at any time during the said five years, out of the territory of the United States.

SEC. 13. *And be it further enacted,* That if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, any certificate or evidence of citizenship referred to in this act; or shall pass, utter, or use as true, any false, forged, or counterfeited certificate of citizenship, or shall make sale or dispose of any certificate of citizenship to any person other than the person for whom it was originally issued, and to whom it may of right belong, every such person shall be deemed and adjudged guilty of felony; and, on being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept to hard labor for a period not less than three or more than five years, or be fined in a sum not less than five hundred dollars, nor more than one thousand dollars, at the discretion of the court taking cognizance thereof.

SEC. 14. *And be it further enacted,* That no suit shall be brought for any forfeiture or penalty incurred under the provisions of this act, unless the suit be commenced within three years from the time of the forfeiture.

Approved, March 3, 1813.

An Act giving further time to purchasers of public lands to complete their payments.

*Be it enacted, &c.,* That every person who, prior to the first day of April, one thousand eight hundred and nine, had purchased any tract or tracts of land of the United States, not exceeding in the whole six hundred and forty acres, unless the tract purchased be a fractional section or sections, or fractional sections classed with an entire section, at any of the land offices established for the disposal of the public lands, and whose lands have not already been actually sold, or reverted to the United States for non-payment of part of the purchase money, shall be allowed the further term of three years, from and after the expiration of the period already given by law, for completing the payment of the said purchase money; which further term of three years shall be allowed only on condition: first, that all arrears of interest on the purchase money shall have been paid on or before the time shall have expired, according to former laws, for completing the payment of the purchase money: *Provided,* That in all cases in which the time for completing the payment of the purchase money may have expired, or shall expire, before

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the first day of June next, the interest may be paid on or before that day: second, that the residue of the sum, due on account of the principal of such purchase, shall be paid, with interest thereon, in three equal annual payments, viz: one-third of the said residue, with interest which may then be due thereon, within one year; another third of said residue, with interest, within two years, and the remaining third of said residue, with interest, within three years after the expiration of the time for completing the payment on account of such purchase, according to former laws; and in case of failure in paying either the arrears or interest, or any of three instalments of principal with the accruing interest, at the time and times abovementioned, the tract of land shall be forthwith advertised and offered for sale, in the manner and on the terms directed by law, in case of lands not paid for within the limited term, and shall revert in like manner, if the sum due, with interest, be not at such sale bidden and paid: *Provided*, That the benefit of this act shall not extend to any person or persons, on account of any purchase of any tract or tracts of land, made at any of the land offices northwest of the river Ohio prior to the first day of April, one thousand eight hundred and eight.

Approved, March 3, 1813.

An Act allowing further time for delivering the evidence in support of claims to land in the Territory of Missouri, and for regulating the donation grants therein.

*Be it enacted, &c.*, That every person or persons who had filed a notice of claim to any tract of land lying within the district of Louisiana (now Territory of Missouri) with the recorder of land titles, according to law, and have not exhibited any testimony or written evidence in support of the same, and whose claim has not already been confirmed, shall be allowed until the first of January next, to deliver to the recorder of land titles for said Territory the written evidence, or produce other testimony, in support of his or their claim, notice whereof had been filed as aforesaid; and the written evidence delivered to the said recorder within the time limited by this section, in support of claims filed as aforesaid, shall be by him recorded in the same manner, and on receiving the same fees allowed by former acts for recording written evidence of claims to lands in the said district; and the rights of any such person neglecting to deliver the evidence of their claims within the time abovementioned shall become barred and void, in so far as the same was derived from the United States, and the evidence thereof be incapable of being admitted in any court whatsoever.

SEC. 2. *And be it further enacted*, That the recorder of land titles for the said Territory shall have the same powers, and perform the same duties in every respect, in relation to the claims, whereof notice had been filed as aforesaid, and the written evidence in support thereof shall have been delivered, or other testimony produced with-

in the time limited by this act, as the board of commissioners for ascertaining the rights of persons claiming lands in said district would have had or should have performed if the evidence of such claims had been delivered before the first day of July, one thousand eight hundred and eight, except that his decision shall be subject to the revision of Congress.

SEC. 3. *And be it further enacted*, That it shall be the duty of the said recorder to make, to the Commissioner of the General Land Office, a report of all the claims which had been filed, and in support of which evidence shall be received as aforesaid, with the substance of such evidence, together with his opinion, and such remarks as he may think proper, which report, together with a list of the claims which, in the opinion of the said recorder, ought to be confirmed, shall be laid before Congress at their next session for their determination thereon.

SEC. 4. *And be it further enacted*, That every person whose claim to a donation of a tract of land in said district has been confirmed by the board of commissioners appointed for ascertaining the rights of persons claiming lands in said district, and is embraced in their report transmitted to the Secretary of the Treasury, or which has been confirmed by the recorder of land titles, under the third section of the act, entitled "An act making further provision for settling the claims to land in the Territory of Missouri," approved on the thirteenth of June, one thousand eight hundred and twelve, shall be entitled to a grant for six hundred and forty acres, notwithstanding a less quantity shall have been allowed to him by the decision of the said commissioners, or recorder of land titles: *Provided*, That in no case shall the grant be for more land than was claimed by the party in his notice of claim, nor for more land than is contained within the acknowledged and ascertained boundaries of the tract claimed.

SEC. 5. *And be it further enacted*, That the principal deputy surveyor for the said Territory shall survey or cause to be surveyed, under the direction of the surveyor general, a tract of six hundred and forty acres of land, to each claimant of a donation tract, whose claim has been confirmed as aforesaid, except as provided by the last preceding section, where the quantity claimed by the party was less than six hundred and forty acres, and where the ascertained boundaries of the tract claimed does not include six hundred and forty acres, in which cases the survey shall contain only the land claimed; and the tracts thus to be surveyed shall consist of unappropriated lands, and shall in every case contain the improved lands, by virtue of the settlement on, and cultivation of, which the claimant's right to a donation has been confirmed; and in all cases where, by reason of adjacent prior claims, or the contiguity of the improvements of the persons entitled to donation grants, each claimant cannot obtain a tract of six hundred and forty acres, the vacant lands applicable to the object shall be divided between the claimants, in such

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manner as shall appear to the principal deputy surveyor most equitable; and whenever plats of the surveys shall have been returned by the principal deputy surveyor to the office of the recorder of land titles, it shall be the duty of the recorder to issue for each tract, according to the survey returned to him, a certificate in favor of the party to each person entitled thereto, which shall be transmitted to the Commissioner of the General Land Office; and if it shall appear to the satisfaction of the said Commissioner that such certificate was fairly obtained, according to the true intent and meaning of this act, then in that case patents shall be granted in like manner as is provided by law for other lands of the United States.

SEC. 6. *And be it further enacted*, That the said recorder of land titles, in addition to his salary as fixed by law, shall be allowed fifty cents on each claim which had been filed, and in support of which evidence shall have been received, according to the first section of this act, and on which he shall make a decision, whether such decision be in favor of, or against, the claim; and a further allowance of five hundred dollars, which shall be paid after he shall have made his report to the Commissioner of the General Land Office; which allowance of fifty cents for each claim decided on, and five hundred dollars on the completion of the business, shall be in full compensation for his services, including clerk hire, respecting the claims to be decided on according to this act.

Approved, March 3, 1813.

An Act to alter the times of holding the District Court in the respective districts of New York and Massachusetts.

*Be it enacted, &c.*, That, instead of the first Tuesdays of April and October, the district court for the district of New York, directed by law to be holden at Utica, shall be holden on the second Tuesday of May, and the fourth Tuesday of September, yearly.

SEC. 2. *And be it further enacted*, That all actions, suits, process, and proceedings, commenced, or to be commenced, or now pending in said district court, and liable to be discontinued, or suffer prejudice from the foregoing alterations, may be returned to, and shall be continued to the district court, to be holden in pursuance of this act, in such manner as that the same shall suffer no discontinuance or prejudice by virtue of this act.

SEC. 3. *And be it further enacted*, That the respective terms of the district court of Massachusetts district, which are now required by law to be holden at Salem, within said district, shall hereafter be holden at Boston, within said district, at the respective times now prescribed by law; and that all writs and processes, of whatsoever nature or kind, that have been or may be issued, and made returnable to the said court at Salem, shall be returnable and returned to the said court at Boston, anything in any former law to the contrary notwithstanding.

Approved, March 3, 1813.

12th Con. 2d Sess.—43

An Act to encourage the destruction of the armed vessels of war of the enemy.

*Be it enacted, &c.*, That, during the present war with Great Britain, it shall be lawful for any person or persons to burn, sink, or destroy, any British armed vessel of war, except vessels coming as cartels or flags of truce; and for that purpose to use torpedoes, submarine instruments, or any other destructive machine whatever: and a bounty of one-half the value of the armed vessel so burnt, sunk, or destroyed, and also one-half the value of her guns, cargo, tackle, and apparel, shall be paid out of the Treasury of the United States to such person or persons who shall effect the same, otherwise than by the armed or commissioned vessels of the United States.

Approved, March 3, 1813.

An Act the better to provide for the supplies of the Army of the United States, and for the accountability of persons intrusted with the same.

*Be it enacted, &c.*, That the third section of the act, entitled "An act to provide for the erecting and repairing of arsenals and magazines, and for other purposes," passed on the second day of April, one thousand seven hundred and ninety-four, be, and the same is hereby, repealed, from and after the thirty-first day of March, one thousand eight hundred and thirteen.

SEC. 2. *And be it further enacted*, That there shall be a superintendent general of military supplies, who shall reside at the seat of Government, and receive an annual salary of three thousand dollars; and whose duty it shall be, under the direction of the Secretary for the War Department, to keep proper accounts of all the military stores and supplies of every description, purchased or distributed for the use of the Army of the United States, and of the volunteers and militia in their service; to prescribe the forms of all the returns and accounts of such stores and supplies purchased, on hand, distributed, used, or sold, to be rendered by the commissary of ordnance and officers in his department, by the commissary general of purchases and his deputies, by the several officers in the quartermaster general's department, by the regimental quartermasters, by the hospital surgeons and other officers belonging to the hospital and medical department, and by all other officers, agents, or persons who shall have received, distributed, or been intrusted with such stores and supplies as aforesaid; to call to account all such persons; to audit and settle all such accounts, and, in case of delinquency, to transmit the account, and to state the value of the articles unaccounted for by such delinquency, to the accounting officers of the Treasury, for final settlement and recovery of such value; to transmit all such orders, and generally to perform all such other duties respecting the general superintendence of the purchase, transportation, safe-keeping, and accountability of military supplies and stores, as aforesaid, as may be prescribed by the Secretary for the War Department.

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SEC. 3. *And be it further enacted,* That the commissary general of purchases and his deputies, the several officers in the quartermaster's department, the regimental quartermasters, the commissary of ordnance, his assistant and deputies, the principal hospital surgeons and officers belonging to the hospital and medical departments, and all other officers, agents, or persons who shall have received, or may be intrusted with, any stores or supplies, of any description whatever, for the use of the Army of the United States, and of the volunteers or militia in their service, shall render quarterly accounts of the disposition and state of all such stores and supplies to the superintendent aforesaid, and shall also make such other returns respecting the same, and at such other times as the Secretary for the War Department may prescribe: *Provided, however,* That the accounts and returns thus rendered shall relate to the articles of supply only, which may have been received and disposed of, or as may remain on hand, and shall not embrace the specie accounts for moneys disbursed by such officers, agents, or other persons; which specie accounts shall be rendered, as heretofore, to the Accountant for the War Department.

SEC. 4. *And be it further enacted,* That the officers, agents, or other persons, who may receive moneys in advance from the War Department, shall render quarterly accounts to the Accountant of the said Department, of their specie receipts and disbursements, and shall moreover make such other monthly summary statements thereof, to the Secretary for the said Department, as he may prescribe. And the quarterly accounts of supplies, or of moneys, rendered as aforesaid, shall be respectively settled by the superintendent general of military supplies, and by the Accountant of the War Department, according to their respective authorities, within three months after the time when such accounts shall have respectively been rendered to them.

SEC. 5. *And be it further enacted,* That the Secretary of the War Department shall be, and he is hereby, authorized and directed to define and prescribe the species as well as the amount of supplies to be respectively purchased by the commissary general's and quartermaster general's departments, and the respective duties and powers of the said departments respecting such purchases; and also to adopt and prescribe general regulations for the transportation of the articles of supply from the places of purchase to the several armies, garrisons, posts, and recruiting places, for the safe-keeping of such articles, and for the distribution of an adequate and timely supply of the same to the regimental quartermasters, and to such other officers as may by virtue of such regulations be intrusted with the same. And the Secretary aforesaid is also authorized to fix and make reasonable allowances for the store rent, storage, and salary of store-keepers, necessary for the safe-keeping of all military stores and supplies.

SEC. 6. *And be it further enacted,* That the superintendent general of military supplies shall

be appointed by the President, with the advice and consent of the Senate; but the President is hereby authorized to make the appointment during the recess of the Senate, which appointment shall be submitted to the Senate at their next meeting for their advice and consent.

SEC. 7. *And be it further enacted,* That the superintendent general of military supplies shall be authorized to employ a sufficient number of clerks: *Provided,* That their annual compensation shall not exceed in the whole seven thousand dollars; and the sum of eight thousand dollars is hereby appropriated for paying the said compensation, and that of the superintendent aforesaid, during the year one thousand eight hundred and thirteen, to be paid out of any money in the Treasury, not otherwise appropriated.

SEC. 8. *And be it further enacted,* That the President of the United States be, and he is hereby, empowered, as he may deem it expedient, either to appoint for the time being a special commissary or commissaries for the purpose of supplying, by purchase or contract, and of issuing, or to authorize any officer or officers in the quartermaster general's department to supply and issue, as aforesaid, the whole or any part of the army, in cases where, either from the want of contractors, or from any deficiency on their part, or from any other contingency, such measure may be proper and necessary in order to insure the subsistence of the army or of any part thereof; and such special commissaries shall each, whilst employed, be entitled to the pay and emoluments of a deputy quartermaster general.

SEC. 9. *And be it further enacted,* That the President of the United States be, and he is hereby, authorized to appoint not exceeding six assistant commissaries, to be attached to such army, or to reside at such places respectively as the Secretary for the War Department may direct, for the purpose of receiving from the commissary general of purchases, or from his deputies, and of distributing to the regimental quartermasters, and to such officers as may, by the Secretary aforesaid, be designated, the clothing and other supplies purchased by the commissary general aforesaid, or his deputies, and destined for the use of the troops belonging to the army, or in the vicinity of the place to which such assistant commissaries may respectively be attached. And said assistant commissaries shall, whilst employed, be entitled to the pay and emoluments of a deputy quartermaster general.

Approved, March 3, 1813.

An Act to authorize the Secretary of the Treasury to provide new certificates of registry.

*Be it enacted, &c.,* That it shall be the duty of the Secretary of the Treasury to cause to be provided blank certificates of registry, and such other papers as may be necessary, executed in such manner, and with such marks as he may direct; and from and after the thirty-first day of December, one thousand eight hundred and fourteen, no certificate of registry shall be issued, except

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such as shall have been provided and marked as aforesaid; and the ships or vessels of the United States, which shall have been duly registered as such, shall be entitled to new certificates of registry (gratis) in exchange for their old certificates of registry. And it shall be the duty of the respective collectors, on departure of any such ship or vessel, after the said thirty-first day of December, one thousand eight hundred and fourteen, from any district to which such ship or vessel shall belong, to issue a new certificate accordingly, and to retain and deface the former certificate.

SEC. 2. *And be it further enacted*, That a sum not exceeding ten thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to carry this act into effect.

Approved, March 3, 1813.

An Act rewarding the officers and crew of the frigate Constitution, and the officers and crew of the Wasp.

*Be it enacted, &c.*, That the President of the United States be, and he is hereby, authorized to have distributed, as prize money, to Captain Isaac Hull, of the frigate Constitution, his officers and crew, the sum of fifty thousand dollars for the capture and destruction of the British frigate Guerriere; and the like sum, in like manner, to Captain William Bainbridge, his officers and crew, for the capture and destruction of the British frigate Java; and the sum of twenty-five thousand dollars, in like manner, to Captain Jacob Jones, of the sloop of war Wasp, his officers and crew, for the capture of the British sloop of war Frolic; and that the sum of one hundred and twenty-five thousand dollars, out of any money in the Treasury not otherwise appropriated, be, and the same is hereby, appropriated for the purposes aforesaid.

Approved, March 3, 1813.

An Act for the better organization of the general staff of the Army of the United States.

*Be it enacted, &c.*, That the adjutant-general's, inspector general's, and quartermaster general's departments shall consist of the following officers, that is to say: an adjutant and inspector general, with the rank, pay, and emoluments of a brigadier general, and not exceeding eight adjutants general, sixteen assistant adjutants general, eight topographical engineers, eight assistant topographical engineers, eight inspectors general, sixteen assistant inspectors general, eight quartermasters general, eight deputy quartermasters general, and thirty-two assistant deputy quartermasters general.

SEC. 2. *And be it further enacted*, That the President of the United States be, and is hereby, authorized, if he shall deem it expedient, to assign one of the brigadiers general to the principal army of the United States, who shall, in such case, act as adjutant and inspector general, and as chief of the staff of such army; and the quartermaster general attached to the principal army

shall, as heretofore, have the brevet rank, and the pay and emoluments of a brigadier general.

SEC. 3. *And be it further enacted*, That all the other adjutants shall have the brevet rank, and the pay and emoluments of a colonel of cavalry; all the other inspectors general, and quartermasters general, shall have the brevet rank, and the pay and emoluments of a colonel of infantry; the assistant adjutants general, assistant inspectors general, deputy quartermasters general, and topographical engineers, shall have the brevet rank, and the pay and emoluments of a major of cavalry; and the assistant topographical engineers, and assistant deputy quartermasters general, shall have the brevet rank, and the pay and emoluments of a captain of infantry.

SEC. 4. *And be it further enacted*, That the assistant adjutants general, the assistant inspectors general, and the assistant topographical engineers, shall be taken from the line. The adjutants general, inspectors general, quartermasters general, deputy quartermasters general, topographical engineers, and assistant deputy quartermasters general, may be taken from the line, or not, as the President may deem expedient. And officers taken from the line, and transferred to the staff, shall receive only the pay and emoluments attached to the rank in the staff; but their transfer shall be without prejudice to their rank and promotion in the line, according to their said rank and seniority, which promotion shall take place according to usage, in the same manner as if they had not been thus transferred.

SEC. 5. *And be it further enacted*, That it shall be the duty of the Secretary of the War Department, and he is hereby authorized, to prepare general regulations, better defining and prescribing the respective duties and powers of the several officers in the adjutant general, inspector general, quartermaster general, and commissary of ordnance departments, of the topographical engineers, of the aids of generals, and generally of the general and regimental staff; which regulations, when approved by the President of the United States, shall be respected and obeyed, until altered or revoked by the same authority. And the said general regulations, thus prepared and approved, shall be laid before Congress at their next session.

SEC. 6. *And be it further enacted*, That the number of assistant deputy commissaries of ordnance shall not exceed sixteen, and that they shall respectively be entitled to the brevet rank, and to the pay and emoluments of a first lieutenant of infantry.

SEC. 7. *And be it further enacted*, That, for the better superintendence and management of the hospital and medical establishment of the Army of the United States, there shall be a physician and surgeon general, with an annual salary of two thousand five hundred dollars, and an apothecary general, with an annual salary of eighteen hundred dollars; whose respective duties and powers shall be prescribed by the President of the United States.

SEC. 8. *And be it further enacted*, That the

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forage, wagon, and barrack masters shall be appointed as heretofore; but each quartermaster general, attached to any separate army, command, or district, shall be authorized, with the approbation, and under the direction, of the Secretary of the War Department, to appoint as many such officers, and to employ as many artificers, mechanics, and laborers, as the public service may require.

SEC. 9. *And be it further enacted*, That the assistant deputy quartermasters general may be appointed, and officers taken from the line and transferred to the staff, may be thus transferred by the President of the United States alone. But all other new appointments authorized by this act shall be made by the President of the United States, with the advice and consent of the Senate. *Provided*, That, during the recess of the Senate, such appointments may be made by the President alone, in which case the same shall be laid before the Senate at their next session for their advice and consent.

SEC. 10. *And be it further enacted*, That every act, and every part of an act of Congress, now in force, within the purview and meaning of this act, be, and the same are hereby, repealed.

SEC. 11. *And be it further enacted*, That all letters and packets to and from the adjutant and inspector general, adjutants general, inspectors general, quartermasters general, commissary general of ordnance, physician, and surgeon general, and apothecary general, which relate to their official duties, shall be free from postage.

SEC. 12. *And be it further enacted*. That the President of the United States be, and he is hereby, authorized to appoint any of the officers authorized by an act, entitled "An act making provision for an additional number of general officers," passed the twenty-fifth day of February, one thousand eight hundred and thirteen, during the recess of the Senate, to be submitted to the Senate at their next session for their advice and consent; and that no officer appointed, or who may be appointed, by virtue of the aforesaid act, shall be entitled to receive any pay or emolument until he shall be called into actual service, nor for any longer time than he shall be continued therein.

Approved, March 3, 1813.

An Act to revive and continue in force "An act declaring the consent of Congress to an act of the State of Georgia, passed the twelfth day of December, one thousand eight hundred and four, establishing the fees of the harbor master and health officer of the ports of Savannah and St. Mary's."

*Be it enacted, &c.*, That the act of Congress, passed the second day of March, one thousand eight hundred and eleven, entitled "An act declaring the consent of Congress to an act of the State of Georgia, passed the twelfth day of December, one thousand eight hundred and four, establishing the fees of the harbor master and health officer of the ports of Savannah and St. Mary's," be, and the same is hereby, revived and

continued in force for one year, and from thence to the end of the next session of Congress, and no longer.

Approved, March 3, 1813.

An Act supplementary to the act for increasing the Navy.

*Be it enacted, &c.*, That the President be and he is hereby authorized to have built six sloops of war, and to have the same manned, equipped, and commissioned for service; and that the President be authorized to have built, or procured, such a number of sloops of war, or other armed vessels, to be manned, equipped, and commissioned, as the public service may require, on the lakes.

SEC. 2. *And be it further enacted*, That the President be and he is hereby authorized to appoint such officers, and to employ the number of seamen which may be necessary for such vessels as are authorized by law to be put in commission, any law to the contrary notwithstanding.

SEC. 3. *And be it further enacted*, That for the building or procuring said vessels, and for the payment of two hundred thousand dollars, for vessels already procured on the lakes, by direction of the President, that the sum of nine hundred thousand dollars, out of any money in the Treasury, not otherwise appropriated, be and the same is hereby appropriated.

SEC. 4. *And be it further enacted*, That the sum of one hundred thousand dollars be appropriated for the purpose of establishing a dock yard, for repairing the vessels of war, in such central and convenient place on the seaboard as the President of the United States shall designate.

SEC. 5. *And be it further enacted*, That the President be and he is hereby authorized to contract for the building any of the six forty-four gun ships authorized by law: *Provided*, That the building be under inspection of an agent appointed by the Secretary of the Navy.

SEC. 6. *And be it further enacted*, That the President of the United States be authorized to sell or dispose of such and so many of the gunboats belonging to the United States as may have become unfit for service, or as, in his judgment, may no longer be necessary to be retained by the Government.

Approved, March 3, 1813.

An Act making appropriations for the support of the Navy of the United States, for the year one thousand eight hundred and thirteen.

*Be it enacted, &c.*, That, for defraying the expenses of the Navy, during the year one thousand eight hundred and thirteen, the following sums be, and the same hereby are, respectively appropriated, that is to say:

For the pay and subsistence of the officers, and pay of the seamen, one million six hundred and sixty-eight thousand dollars; and for pay due to the officers and crews of the public ships and other vessels in commission, for the year one thou-



sand eight hundred and twelve, three hundred and sixty-five thousand dollars.

For provisions, seven hundred and seventy-five thousand dollars.

For medicines, instruments, hospital stores, and all expenses on account of the sick, one hundred thousand dollars.

For repair of vessels, six hundred and forty thousand dollars.

For freight, store rent, and all other contingent expenses, two hundred and fifty thousand dollars.

For expenses of navy yards, comprising docks and other improvements, pay of superintendents, store-keepers, clerks, and laborers, ninety thousand dollars.

For ordnance, and for ordnance and military stores, one hundred thousand dollars.

For pay and subsistence of the marine corps, including provisions for those on shore, and forage for the staff, two hundred and forty-five thousand three hundred and ninety-one dollars and seventy cents.

For clothing for the same, seventy-one thousand seven hundred and eighty-eight dollars and ten cents.

For military stores for the same, twenty-seven thousand six hundred and eight dollars and seventy-five cents.

For medicines, medical services, hospital stores, and all other expenses on account of the sick belonging to the marine corps, twenty thousand dollars.

For quartermasters' and barrack masters' stores, officers' travelling expenses, armorers' and carpenters' bills, fuel, premiums for enlisting men, musical instruments, bounty to music, and other contingent expenses of the marine corps, forty-six thousand dollars.

SEC. 2. *And be it further enacted*, That the several sums specifically appropriated by this act shall be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, March 3, 1813.

An Act making appropriations for the support of the Military Establishment, and of the volunteer militia in the actual service of the United States, for the year one thousand eight hundred and thirteen.

*Be it enacted, &c.*, That, for defraying the expenses of the Military Establishment of the United States, including the volunteers and militia, in their actual service, for the year one thousand eight hundred and thirteen, for the Indian department, and for the expense of fortifications, arsenals, and armories, the following sums, including the sum of one million of dollars already appropriated by the first section of the act, entitled "An act making certain partial appropriations for the year one thousand eight hundred and thirteen," be, and the same are hereby, respectively appropriated, that is to say:

For the pay of the Army of the United States, including the pay of the artificers and laborers in the quartermaster general's and ordnance departments, and of the private servants kept by offi-

cers, and for the pay of the volunteers and militia in the actual service of the United States, five million one hundred and sixty-eight thousand eight hundred and three dollars.

For forage to officers, one hundred and nine thousand two hundred and twenty-four dollars.

For the subsistence of the army, and volunteers, and militia, two million nine hundred and seventy-seven thousand five hundred and thirty-one dollars.

For clothing, two million fifteen thousand eight hundred and eighty-four dollars.

For bounties and premiums, five hundred and fifty-seven thousand seven hundred and forty dollars.

For camp and field equipage, two hundred and seventy thousand dollars.

For the medical and hospital department, two hundred thousand dollars.

For ordnance and ordnance stores, nine hundred and twenty-eight thousand dollars.

For fortifications, four hundred and ninety-seven thousand dollars.

For arsenals, magazines, and armories, three hundred and fifty-two thousand two hundred and eight dollars.

For the quartermaster general's department, including fuel, straw, barrels, quarters, tools, and all the expenses incident to transportation, two million three hundred thousand dollars.

For contingencies, three hundred and five thousand three hundred and seventeen dollars.

For purchasing books, maps, and plans, two thousand five hundred dollars.

For the salary of the commissary general of purchases, three thousand dollars.

For the salary of the clerks employed in the offices of the adjutant general, of the commissary general, and of the quartermaster general, eight thousand dollars.

For the purchase of books and apparatus for the military academy, twelve thousand dollars.

For the Indian department, one hundred and sixty-four thousand five hundred dollars.

For the repayment of the sum of five hundred and twenty-seven dollars, being a balance due the State of Maryland, of moneys paid by that State to the United States, as the purchase money of public arms, which have not been fully supplied.

SEC. 2. *And be it further enacted*, That the several sums specifically appropriated by this act shall be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, March 3, 1813.

An Act making an appropriation for alterations and repairs in the Capitol.

*Be it enacted, &c.*, That a sum not exceeding five thousand dollars shall be and the same is hereby appropriated, to be applied under the direction of the President of the United States, in such repairs or alterations in the Chamber of the House of Representatives as may be necessary for their accommodation in their future sessions,

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having in view as well the increased number of the members as the better lighting, ventilating, and warming the Chamber; which sum shall be paid out of any money in the Treasury not otherwise appropriated.

Sec. 2. *And be it further enacted*, That five hundred dollars be appropriated to repair the roof of the Capitol, to be paid out of any money in the Treasury not otherwise appropriated.

Approved, March 3, 1813.

An Act making appropriation for the support of Government for the year one thousand eight hundred and thirteen.

*Be it enacted, &c.*, That, for the expenditure of the civil list, in the present year, including the contingent expenses of the several departments and offices, for the compensation of the several loan officers and their clerks, and for books and stationery for the same; for the payment of annuities and grants; for the support of the mint establishment; for the expense of intercourse with foreign nations; for the support of light-houses, beacons, buoys, and public piers; for defraying the expenses of surveying the public lands; and for satisfying certain miscellaneous claims, the following sums be, and the same are hereby, respectively appropriated, that is to say:

For compensation granted by law to the members of the Senate and House of Representatives, their officers, and attendants, estimated for a session of four months and a half continuance, one hundred and ninety-six thousand two hundred and fifty-five dollars.

For the expense of fire-wood, stationery, printing, and all other contingent expenses of the two Houses of Congress, fifty-two thousand dollars.

For all contingent expenses of the library of Congress, and for the librarian's allowance, for the year one thousand eight hundred and thirteen, eight hundred dollars.

For compensation to the President and Vice President of the United States, thirty thousand dollars.

For compensation to the Secretary of State, clerks, and persons employed in that department, including a deficiency of one thousand one hundred and twenty-five dollars, in last year's appropriation, fifteen thousand two hundred and fifty-eight dollars.

For compensation to a clerk on old records in the said department, for the year eighteen hundred and thirteen, one thousand one hundred and fifty dollars.

For compensation to a messenger to the Patent office, two hundred dollars.

For additional compensation to the clerks in the said department, not exceeding fifteen per centum, in addition to the sum allowed by the act, entitled "An act to regulate and fix the compensation of clerks, and to authorize the laying out certain certain public roads, and for other purposes," one thousand and seventy-two dollars and fifty-four cents.

For the incidental and contingent expenses of

the said department, one thousand five hundred dollars.

For printing and distributing the laws of the second session of the twelfth Congress, and printing the laws in newspapers, including the sum of six thousand two hundred and eighty-two dollars, to make good a deficiency in the appropriation for this object in the year one thousand eight hundred and twelve, thirteen thousand six hundred and twenty-two dollars.

For compensation to the Secretary of the Treasury, clerks, and persons employed in his office, including a deficiency of ten dollars in last year's appropriation, thirteen thousand three hundred and nine dollars and eighty-one cents.

For expense of translating foreign languages, allowance to the person employed in transmitting passports and sea letters, and for stationery and printing in the office of the Secretary of the Treasury, one thousand dollars.

For compensation to the Comptroller of the Treasury, clerks, and persons employed in his office, including the sum of two thousand eight hundred and eighty-nine dollars for compensation to his clerks, in addition to the sum allowed by the act of the twenty-first of April, one thousand eight hundred and six, fifteen thousand eight hundred and sixty-six dollars.

For expense of stationery, printing, and incidental and contingent expenses of the Comptroller's office, eight hundred dollars.

For compensation to the Auditor of the Treasury, clerks, and persons employed in his office, twelve thousand two hundred and twenty-one dollars.

For expense of stationery, printing, and incidental and contingent expenses of the Auditor's office, five hundred dollars.

For compensation to the Treasurer, clerks, and persons employed in his office, including a sum of one thousand dollars for compensation to his clerks, in addition to the sum allowed by the act of the twenty-first of April, one thousand eight hundred and six, seven thousand two hundred and twenty-seven dollars and forty-five cents.

For expenses of stationery, printing, and incidental and contingent expenses of the Treasurer's office, one thousand three hundred dollars.

For compensation to the Commissioner of the General Land Office, clerks, and persons employed in his office, including the sum of five hundred and eighty-five dollars and twenty-four cents, for extra services of clerks, and for the service of a messenger during the year one thousand eight hundred and twelve, ten thousand nine hundred and ninety-five dollars.

For expense of stationery, printing, and incidental and contingent expenses of the Commissioner's office, including four hundred and seventy-four dollars and twenty cents, to defray those expenses in the year one thousand eight hundred and twelve, seven hundred and twenty-four dollars and twenty cents.

For the expense of vellum and printing land patents, including the sum of fifteen hundred and six dollars and twenty-five cents, for defraying

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the expense incurred for that object, in the year one thousand eight hundred and twelve, four thousand three hundred and six dollars and twenty-five cents.

For compensation to the Register of the Treasury, clerks, and persons employed in his office, sixteen thousand and fifty-two dollars and two cents.

For additional compensation to the clerks in the Treasury Department, not exceeding fifteen per centum, in addition to the sum allowed by the act, entitled "An act to regulate and fix the compensation of clerks, and to authorize the laying out certain public roads, and for other purposes," six thousand six hundred and thirty-four dollars and nine cents.

For compensation to the messenger of the Register's office, for stamping and arranging ships' registers, ninety dollars.

For expense of stationery, printing, and all other incidental and contingent expenses in the Register's office, including books for the public stocks, and for the arrangement of the marine records, two thousand eight hundred dollars.

For fuel, and other contingent and incidental expenses of the Treasury Department, four thousand dollars.

For the purchase of books, maps, and charts, for the use of the Treasury Department, four hundred dollars.

For compensation to a Superintendent, employed to secure the buildings and records of the Treasury Department, during the year one thousand eight hundred and thirteen, including the expense of two watchmen, the repairs of two fire engines, buckets, lanterns, and other incidental and contingent expenses, one thousand one hundred dollars.

For defraying the expense of stating and printing the public documents for the year one thousand eight hundred and thirteen, one thousand two hundred dollars.

For compensation to the Secretary of the Commissioners of the Sinking Fund, two hundred and fifty dollars.

For compensation to the Secretary of War, clerks, and persons employed in his office, including the sum of three thousand nine hundred and sixty dollars for clerk hire, in addition to the sum allowed by the act of April twenty-first, one thousand eight hundred and six, fifteen thousand two hundred and ten dollars.

For expense of fuel, stationery, printing, and other contingent expenses in the office of the Secretary of War, two thousand dollars.

For compensation to the Accountant of the War Department, clerks, and persons employed in his office, including the sum of five thousand dollars for clerk hire, in addition to the sum allowed by the act of the twenty-first of April, one thousand eight hundred and six, fifteen thousand nine hundred and ten dollars.

For additional compensation to the clerks in the War Department, not exceeding fifteen per centum, in addition to the sum allowed by the act, entitled "An act to regulate and fix the com-

pensation of clerks, and to authorize the laying out certain public roads, and for other purposes," two thousand two hundred and twenty-six dollars.

For contingent expenses in the office of the Accountant of the War Department, one thousand dollars.

For compensation to the clerks employed in the Paymaster's office, nine thousand and ninety dollars.

For compensation to a messenger for the Paymaster's office, four hundred and ten dollars.

For contingent expenses in the said office, five hundred dollars.

To Doyle Sweeny, for compensation for his services as clerk in the office of Purveyor of Public Supplies, in the year one thousand eight hundred and ten, one hundred and twenty-five dollars.

For compensation to the Secretary of the Navy, clerks, and persons employed in his office, including the sum of one thousand six hundred dollars clerk hire, in addition to the sum allowed by the act of the twenty-first of April, one thousand eight hundred and six, eleven thousand four hundred and ten dollars.

For expenses of stationery, fuel, printing, and other contingent expenses in the said office, two thousand dollars.

For compensation to the Accountant of the Navy, clerks and persons employed in his office, ten thousand four hundred and ten dollars.

For contingent expenses in the office of the Accountant of the Navy, one thousand dollars.

For additional compensation to the clerks in the Navy Department, not exceeding fifteen per centum in addition to the sum allowed by the act, entitled "An act to regulate and fix the compensation of clerks, and to authorize the laying out of certain public roads, and for other purposes," one thousand nine hundred and thirty-five dollars.

For compensation to the Postmaster General, Assistant Postmasters General, clerks, and persons employed in the Postmaster General's office, including the sum of three thousand five hundred and twelve dollars for compensation to clerks, in addition to the sum allowed by the act of the twenty-first of April, one thousand eight hundred and six, nineteen thousand five hundred and sixty-seven dollars.

For the expense of fuel, house rent for the messenger, candles, stationery, chests, &c., incident to the Postmaster General's office, two thousand eight hundred dollars.

For additional compensation to the clerks employed in the Postmaster General's office not exceeding fifteen per centum in addition to the sum allowed by the act, entitled "An act to regulate and fix the compensation of clerks, and to authorize the laying out certain public roads, and for other purposes," one thousand four hundred and one dollars and seventy-five cents.

For compensation to the several Loan officers, thirteen thousand two hundred and fifty dollars.

For compensation to the clerks of the Commis-

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sioners of Loans, including a sum of two thousand dollars in addition to the amount heretofore allowed by law, and for allowance to certain Loan officers, in lieu of clerk hire, and to defray the authorized expense of the several Loan offices, seventeen thousand dollars.

For compensation to the Surveyor General and his clerks, three thousand two hundred dollars.

For compensation to the Surveyor of the lands south of Tennessee, clerks employed in his office, and for stationery and other contingencies, including the sum of one thousand five hundred dollars for clerk hire, in addition to the sums heretofore appropriated for that object, four thousand seven hundred dollars.

For compensation to the officers of the Mint, viz :

The Director, two thousand dollars ;

The Treasurer, one thousand two hundred dollars ;

The Assayer, one thousand five hundred dollars ;

The Chief Coiner, one thousand five hundred dollars ;

The Melter and Refiner, one thousand five hundred dollars ;

The Engraver, one thousand two hundred dollars ;

One clerk, at seven hundred dollars, and

One clerk at five hundred dollars ;

For wages to the persons employed in melting, coining, carpenters', millwrights', and smiths' work, including the sum of one thousand dollars allowed to an assistant coiner and die forger, who also oversees the execution of the iron work, and of six hundred dollars allowed to an assistant engraver, eight thousand five hundred dollars ;

For repairs of furnaces, cost of rollers and screws, timber, bar-iron, lead, steel, potash, and for all other contingencies of the Mint, five thousand three hundred and four dollars and sixty-two cents ;

For an allowance for wastage in the gold and silver coinage, three thousand dollars.

For compensation to the Governor, Judges, and Secretary, of the Mississippi Territory, nine thousand dollars.

For expense of stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary, of the Indiana Territory, six thousand six hundred dollars.

For expense of stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary, of the Michigan Territory, six thousand six hundred dollars.

For expense of stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary, of the Missouri Territory, six thousand six hundred dollars.

For expense of stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary, of the Illinois Territory, six thousand six hundred dollars.

For expense of stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For the discharge of such demands against the United States, on account of the Civil Department, not otherwise provided for, as shall have been admitted in due course of settlement at the Treasury, two thousand dollars.

For compensation granted by law to the Chief Justice, the Associate Judges, and District Judges, of the United States, including the Chief Justice and two Associate Judges of the District of Columbia, and to the Attorney General, including the sum of nine hundred and fifty-three dollars and eighty-four cents, for the salary of the additional District Judge of the State of New York, for the year eighteen hundred and twelve, and a further sum of one thousand four hundred and fifty dollars, to make good a deficiency in the appropriation for the year eighteen hundred and twelve, for the compensation of the Attorney General, and of the District Judge of Louisiana, sixty-five thousand four hundred and three dollars and eighty-four cents.

For the like compensation granted to the several District Attorneys of the United States, three thousand four hundred dollars.

For compensation granted to the several Marshals for the districts of Maine, New Hampshire, Vermont, New Jersey, North Carolina, Kentucky, Ohio, East and West Tennessee, and Louisiana, two thousand two hundred dollars.

For defraying the expenses of the Supreme, Circuit, and District Courts of the United States, including the District of Columbia, and of jurors and witnesses, in aid of the funds arising from fines, forfeitures, and penalties, and for defraying the expenses of prosecutions for offences against the United States, and for the safe-keeping of prisoners, forty thousand dollars.

For the payment of sundry pensions granted by the late and present Government, eight hundred and sixty dollars.

For the payment of the annual allowance to the invalid pensioners of the United States, from the fifth of March, one thousand eight hundred and thirteen, to the fourth of March, one thousand eight hundred and fourteen, ninety-eight thousand dollars.

For expenses incident to the receiving the subscriptions to the loan of eleven millions of dollars, authorized by the act of the fourth of March, one thousand eight hundred and twelve, two thousand dollars, in addition to the sum already for that purpose appropriated.

For the maintenance and support of light-houses, beacons, buoys, and public piers, stakeages of channels, bars, and shoals ; and certain contingent expenses, including twenty-four thousand dollars for completing the fitting up of all the light-houses

with Winslow Lewis's improvements, ninety-one thousand three hundred and forty-nine dollars and fifteen cents.

For erecting light-houses at the mouth of the Mississippi river, and at or near the pitch of Cape Lookout, in North Carolina, being the balance of a former appropriation carried to the surplus fund, thirty-four thousand nine hundred and ninety-five dollars and fifty cents.

For building a light-house at Nawshawn island, near Tarpaulin cove in Massachusetts, being the amount of a former appropriation carried to the surplus fund, two thousand four hundred and seventy-five dollars.

For erecting a beacon and placing buoys near the entrance of Savannah river, being an expense incurred under the act of the sixteenth of July, one thousand seven hundred and ninety-eight, carried to the surplus fund, two thousand four hundred and ninety-four dollars and eighty-nine cents.

For erecting two lights on Lake Erie, viz: on or near Bird island, and on or near Presque Isle, being the balance of a former appropriation carried to the surplus fund, one thousand five hundred and ninety dollars.

For placing buoys or beacons at or near the entrance of the harbor of Beverly, in Massachusetts, being the balance of a former appropriation carried to the surplus fund, three hundred and forty-one dollars and ninety-five cents.

For rebuilding the Baldhead light-house, in North Carolina, fifteen thousand dollars.

For placing a buoy at the entrance of Barnstable harbor, one hundred dollars.

For the support of sick and disabled seamen, in addition to the funds already appropriated by law, twenty thousand dollars.

For defraying the expense of surveying the public land within the several Territories of the United States, sixty-one thousand two hundred and sixty dollars.

For the payment of a claim for taking the second census or enumeration of the inhabitants of the United States, the sum appropriated for that object having been heretofore carried to the surplus fund, two hundred and seventy-seven dollars and twelve cents.

For the support and safe-keeping of prisoners of war, one hundred and fifty thousand dollars.

For bringing the votes for President and Vice President of the United States to the seat of Government, one thousand nine hundred and eleven dollars and fifty cents.

For paying the bounties which may become payable to the owners of private armed vessels, in conformity with the ninth section of the act of the twenty-sixth of June, one thousand eight hundred and twelve, ten thousand dollars.

For making the road from Cumberland, in the State of Maryland, to the State of Ohio, to be repaid out of the five per cent. fund, reserved for that purpose, one hundred and forty thousand dollars.

For pensions to the widows and children of officers and soldiers killed in the campaign of one

thousand eight hundred and eleven, on the Wabash, from the seventh of November, one thousand eight hundred and eleven, to the thirty-first of December, one thousand eight hundred and thirteen, four thousand five hundred and seventeen dollars and twenty-seven cents.

For expenses of intercourse with foreign nations, thirty-five thousand four hundred dollars.

For the contingent expenses of intercourse with foreign nations, fifty thousand dollars.

For expenses of intercourse with the Barbary Powers, fifty thousand dollars.

For the relief and protection of distressed American seamen, fifteen thousand dollars.

For expenses of prosecuting claims and appeals in the Courts of France and Denmark, in relation to captures of American vessels, and defending causes elsewhere, four thousand dollars.

For the discharge of such miscellaneous claims against the United States, not otherwise provided for, as shall have been admitted in due course of settlement at the Treasury, four thousand dollars.

SEC. 2. *And be it further enacted*, That the several appropriations herein before made shall be paid and discharged out of the fund of six hundred thousand dollars, reserved by an act making provision for the debt of the United States, and of any moneys in the Treasury not otherwise appropriated.

Approved, March 3, 1813.

An Act for altering the time for holding the District Court in the District of Maine.

*Be it enacted, &c.*, That the session of the district court for the district of Maine, by law appointed to be holden at Wiscasset on the first Tuesday in March, shall, from and after the first day of April next, be holden at Wiscasset on the last Tuesday of February, annually, any law to the contrary notwithstanding.

Approved, March 3, 1813.

An Act vesting in the President of the United States the power of retaliation.

*Be it enacted, &c.*, That, in all and every case, wherein, during the present war between the United States of America and the United Kingdom of Great Britain and Ireland, any violations of the laws and usages of war among civilized nations, shall be or have been done and perpetrated by those acting under authority of the British Government, on any of the citizens of the United States, or persons in the land or naval service of the United States, the President of the United States is hereby authorized to cause full and ample retaliation to be made, according to the laws and usages of war among civilized nations, for all and every such violation as aforesaid.

SEC. 2. *And be it further enacted*, That, in all cases where any outrage or act of cruelty or barbarity shall be or has been practised by any Indian or Indians, in alliance with the British Government, or in connexion with those acting under the authority of the said Government, on citizens of the United States or those under its

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protection, the President of the United States is hereby authorized to cause full and ample retaliation to be done and executed on such British subjects, soldiers, seamen, or marines, or Indians, in alliance or connexion with Great Britain, being prisoners of war, as if the same outrage or act of cruelty or barbarity had been done under the authority of the British Government.

Approved, March 3, 1813.

Resolution relative to the brilliant achievements of Captains Hull, Decatur, Jones, and Lieutenant Elliott.

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be, and he is hereby, requested to present to Captain Hull of the frigate Constitution, Captain Decatur of the frigate United States, and Captain Jones of the sloop-of-war Wasp, each, a gold medal, with suitable emblems and devices; and a silver medal, with like emblems and devices, to each commissioned officer of the aforesaid vessels, in testimony of the high sense entertained by Congress of the gallantry, good conduct, and services of the captains, officers, and crews of the aforesaid vessels, in their respective conflicts with the British frigates the Guerriere and the Macedonian, and sloop-of-war Frolic; and the President is also requested to present a silver medal, with like emblems and devices, to the nearest male relative of Lieutenant Bush, and one to the nearest male relative of Lieutenant Funk, in testimony of the gallantry and merit of those deceased officers, in whom their country has sustained a loss much to be regretted.

SEC. 2. *And be it further resolved,* That the

President of the United States be, and he hereby is, requested to present to Lieutenant Elliott, of the navy of the United States, an elegant sword, with suitable emblems and devices, in testimony of the just sense entertained by Congress of his gallantry and good conduct in boarding and capturing the British brigs Detroit and Caledonia, while anchored under the protection of Fort Erie.

Approved, January 29, 1813.

Resolution requesting the President of the United States to cause to be prepared and laid before Congress a system of military discipline.

*Resolved, &c.,* That the President of the United States be, and he is hereby, requested to cause to be prepared and laid before Congress, as soon as practicable, a military system of discipline for the infantry of the army and militia of the United States.

Approved, March 3, 1813.

Resolution requesting the President of the United States to present medals to Captain William Bainbridge and the officers of the frigate Constitution.

*Resolved, &c.,* That the President of the United States be, and he is hereby, requested to present to Captain William Bainbridge, of the frigate Constitution, a gold medal, with suitable emblems and devices; and a silver medal, with suitable emblems and devices, to each commissioned officer of the said frigate, in testimony of the high sense entertained by Congress of the gallantry, good conduct, and services of Captain Bainbridge, his officers and crew, in the capture of the British frigate Java, after a brave and skilful combat.

Approved, March 3, 1813.